A HISTORY OF BANKING

IN ALL THE

LEADING NATIONS.

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LEADING NATIONS;

COMPRISING

THE UNITED STATES; GREAT BRITAIN; GERMANY; AUSTRO-HUNGARY; FRANCE; ITALY; BELGIUM; SPAIN; SWITZERLAND; PORTUGAL; ROUMANIA; RUSSIA; HOLLAND; THE SCANDINAVIAN NATIONS; CANADA; CHINA; JAPAN;

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A History of Banking

IN

THE UNITED STATES;

BY

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EDITOR'S PREFACE.

ALTHOUGH a book should always be able to tell its own story, yet when its authorship is so widely composite as in the case of the present volumes, a few prefatory words may be neither inappropriate nor unnecessary.

This work finds its occasion in an important juncture of circumstances. Next to the notable political unrest of the world is its financial unrest. Among all the advanced civilizations, there is a distinct consciousness of inadequacy in the methods and mechanisms of banking systems to satisfy the rapidly expanding commerce and finance of modern times. Equally, the world's currency systems are felt to be so cumbrous and inflexible as to fetter rather than facilitate the ever-enlarging volume of both internal and external exchanges. The laws intended to regulate the instruments of exchange mar their efficiency, make them needlessly costly, restrict their circulation and invest them with a quality of positive danger. In the United States, this evil of over-regulation has become so obstructive to banking and monetary operations as to have developed one of the most serious financial situations in the history of the country.

These aspects of the times seem to appeal to our statesmen, our economists, our bankers and our intelligent citizens at large for a candid and thorough examination into the instrumentalities through which the exchanges of our seventy millions of active population are transacted. The Publishers of this Work conceive that one of the best aids to such an investigation must lie in an unbiassed study of the banking and monetary systems of all nations, as developed by a continually progressive experience. These volumes are designed to encourage and assist such education. The economic learning or the eminent practical experience of the Authors should sufficiently guarantee the accuracy of their Histories. The method of treatment adopted has been to pursue an impartial narration of events, exhibit-

ing the various banking and currency systems in their action and results, rather than to discuss them critically.

To strict bibliographic critics, some explanation may be permitted. With such a diversity of Authors of various nationalities, it has been found impossible to maintain uniformity in the arrangement of matter, the use of captions and the form of typographical make-up, without in some measure interfering with the writer's identity of method; which, to authorities who have earned a title to their individuality, would be an intrusion. To this cause also must be attributed the omission of an Index from some of the Treatises.

THE EDITOR.

February 1, 1896.

AUTHOR'S PREFACE.

THE essential function of a bank is to facilitate transfers of capital. In the United States, however, the function of note issue has always occupied the chief place in public thought about banks. It is as note issuers that they have had their greatest share in the national life, and it is in this capacity that the historian has chiefly to deal with them.

The material for this history is very intractable. It bristles with details which defy attempts at condensation. There is a general history of banks which centers around the federal government; but we begin with thirteen commonwealths, in each of which banks, beside their shares in the general history, had a history of their own, and the number of commonwealths increases to thirty, before the present National Bank system was established.

Should the narrative be constructed on the chronology, or on the subdivisions of the subject, or on the State division? Each of these methods has its claims. In order to try to do justice to each of them, I have adopted the following construction of the work. Taken as a whole the treatment is chronological; it is not evolutional; for scarcely any genetic development can be traced. Six periods are marked off, which are based on the grander vicissitudes of the history. The chapters and sub-chapters are constructed on the analysis of the subject matter within the period. They allow the reader to pursue any one subject consecutively, if he so desires. The Table of Contents presents this chronological and analytical construction. From point to point surveys of the States are taken, which present the history of banks in the several States. The references in the Index, under the names of the States, will enable the reader to connect these detached sections into a history of the banks in any State.

The authorities on which I have relied are the Session Laws, Court Reports, State and Congressional documents. I have examined the Session Laws of all the States south and west of Maryland, from the beginning of

the Colony or Territory until the adoption of the National Bank system. For the States north and east of Maryland, I have relied more on secondary authorities, consulting the Session Laws for special laws or periods. In this connection I have to express my obligations to the Bar Association of the city of New York for the unlimited facility of using their splendid collection of the Session Laws which they allowed me. All secondary authorities are cited at the foot of the page, and need not be mentioned further here. As to documents of the States, I have been obliged to be content with such as have drifted by chance into the libraries within my reach. To do more than this it would be necessary to travel from State to State and spend much time in each. Even if one could do this, how many States possess collections of their documents, from the beginning of this century, in an accessible form?

With few documents at hand, it is impossible to answer the doubts and queries which arise, especially in condensing, and also it is impossible to make the combinations by which, in a work of this kind, the investigator verifies and ratifies the statements of fact. The section in which this lack has been felt the most is Chapter 16, Section 1, on the period 1845-60. The place in reference to which the most uncertainties remained uncleared was New Orleans. The history of the banks of that place will yet furnish an interesting and important subject of special study for some investigator who has the local information within his reach.

For the reasons now stated, I have often been compelled to advance with a great feeling of uncertainty, and I cannot hope that I have avoided mistakes. I shall eagerly welcome corrections, or references to documents and authorities which I have neglected, if gentlemen who have local opportunities of information will send them to me.

W. G. SUMNER.

YALE UNIVERSITY, *February 1, 1896.*

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BANKS IN THE UNITED STATES.

PERIOD I.—1630 TO 1780.

The Colonists Experiment with Joint Stock Banks of Issue on Land Security, and with Provincial Mortgage Loan Offices Issuing Currency.

CHAPTER I.

BANKS IN THE COLONIES.

THE term "bank" was used in the American colonies from the very beginning of the settlement, in the sense of a pile or heap. In a report made to the Massachusetts General Court, in 1652, reference is made to the fact that some people have been discussing a project for raising a bank, or engaging in general trade, and have been pondering on the badness of money and its fluctuations, and other things relating to the regulation of trade. The hope is expressed that these ponderings will bear fruit and that things will be "reduced to a more comfortable state than we now find." In the draft of an address to Charles II, in 1684, mention is made of the fact that before the establishment of the mint, in 1652, "for some years paper bills passed for payment of debts."* Correspondence between Governor Winthrop of Connecticut and Hartlib is cited, about 1660, in which a "bank of lands and commodities" is under discussion. It is referred to as "a way of trade and bank without money," and Winthrop was confident that this bank would "answer all those ends that are attained in other parts of the world by banks of ready money."

This endeavor, which we here meet with in the very earliest days of the settlement, to invent some kind of a bank on land, which could be made to work like the banks founded on money, is most interesting and important

* The statements in this chapter about colonial banks are taken, when no other authority is mentioned, from Trumbull; Proc. Amer. Antiq. Soc. 1884; Paine, ibid., 1866; Felt, Mass. Currency; and Hutchinson, Hist. of Mass. Bay.

for the study of our subject, because we shall find that from that day to this the same train of thought, speculation, and effort has been repeated clear across this continent, whenever the same economic circumstances have existed. Circulating notes, which are put in the place of money, are more useful and convenient for many purposes than specie, provided their value can be assured. If they take the place of money, they become cash. They deteriorate, however, into negotiable instruments and not cash so soon as the slightest shade of difference arises between their value and that of specie. Notes issued on the security of anything but specie, or on specie, if not strictly held to the standard, are negotiable instruments. No matter how great and good the security behind them may be, it is always possible that for some reason, a divergence may arise between the paper instrument and cash. The persons who possess land in a new country are under an absolute necessity for some capital. The amount of capital that can be employed on the land is small, because no high culture would pay; but the amount of capital that is necessary for superficial culture is absolutely indispensable. On the advancing margin of new settlement, breaking the way into the wilderness all the way across the continent, the circumstances of the first settlers on the coast have been repeated. The want is capital. They always think that the want is money. Any community of people who had been educated on a money economy, and who meant to remain on it, would have money, because that would be one of its first and most fundamental needs. It would be forced to go without other things in order to get money, because the lack of money would arrest the operation of the industrial and commercial organization on which its members wo ld depend for the supply of all needs. But new settlers, destitute of everything, begrudge the investment of capital in money, which is only a tool of exchange. They want to put all the capital they can get into the circulating capital which is turned over in every period of production and brings the full business rate of profit. If, therefore, they get any money, they part with it, as far as they possibly can, in the purchase of the real capital which they need. This is what the colonists of North America did. They got plenty of silver in commerce. They spent it all for products of civilized industry from England. They were able to do this because they gave up the money system of traffic and fell back upon barter. Then they could do without money, but when they had made arrangements to do without money, they had to do without it.* It is not possible to do without it and keep it too. Their own interpretation of the facts, in consonance with such economic theories as then prevailed, was that "the balance of trade drew away all their specie." Then they thought it necessary to do something to "provide a medium," and we find them planning a bank for the purpose. Land was the one thing which they possessed in abundance and they wanted to make this a security for the

* "Silver began to be generally shipped off as paper became the currency, which gave the merchant the liberty of shipping off his silver, as merchandise, which otherways he must have kept as cash, seeing no business can be carried on to advantage without cash." (The Overstone Tract, 1740.)

notes which were to do the work of money. There was a very active speculation on banks going on in England, and many of the speculators were working at schemes for banks founded on land values, which were a very different thing in an old country from what they were in a new. It was very natural that these ideas should be taken up eagerly by the colonists.

It must be added, however, that there were circumstances of difficulty connected with the supply of money. In any such primitive agricultural community the circulation of money is extremely sluggish, because the organization is low and the households largely supply their wants from their own direct efforts. It is only at particular seasons of the year that money is more needed and that its circulation is more active. Money should therefore be drawn from commercial centers at those times and then returned to them. Otherwise the expense of maintaining money enough all the time to suffice at the times of need is really great. The distance of the colonies from England, the difficulty of communication, and the obstructive legislation which was in fashion, made it impossible that money should go to and fro with facility as wanted. Gallatin, who was a competent observer, and who lived in the midst of these primitive facts in western Pennsylvania, said of the people there: "The principle almost universally true that each country will be naturally supplied with the precious metals according to its wants did not apply to their situation."

The American colonists gave up the struggle to maintain themselves on a money system. They fell back upon barter and established a system of barter currency as their money of account. This fact is of the first importance for understanding the financial and monetary phenomena of the period.

In 1667 a pamphlet was published in Massachusetts in which the ideas which have been described were very fully set forth. The writer had perceived that, if exchanges could only be brought into coincidence, there was need of little or no money. He inferred that money itself need have no value. He wanted to provide some ultimate security in land, and in a pledge of merchandise, and he aimed to carry out the transactions by book debts, or bills of exchange, or change bills, according to the nature and size of the transactions. He also lays great stress on the advantages which would come from a more abundant supply of money. The project is like those which were put forth in England a little later by Chamberlain and Briscoe for land banks. An institution on this plan appears to have been actually started in Massachusetts, in 1671, "and was carried on in private for many months," although without issuing notes. Another similar bank was set up in 1681 which did issue notes. Nothing is known of its history.

John Blackwell and others made a proposition to the authorities of the colony, in 1686, to set up a bank to issue notes and make loans on the security of land and imperishable merchandise. The scheme was approved and authorized. "All that is known of the history of this Association, the

first chartered bank in Massachusetts, is found in a brief reference to it made by the anonymous author of a pamphlet printed in 1714." "Our fathers, about twenty-eight years ago, entered into a partnership to circulate their notes founded on land security, stamped on paper, as our Province bills, which gave no offence to the government then, etc."*

The first bills of credit, as they were called by a seventeenth century expression, which is said to have been applied to the goldsmiths' notes in London, were issued in 1690 by the government of Massachusetts Bay, to pay the expenses of an unsuccessful expedition to Canada. Of these bills of credit, Cotton Mather said, in a pamphlet, that they were disposed of by the first receivers at 14 or 15 shillings in the pound. He urged the impossibility of collecting them in corn "at overvalue," whereby he bears testimony to the error and mischief of the barter currency. He has heard that some individuals in New York or Connecticut have circulated notes on their credit and is indignant that these of Massachusetts, based on all the wealth of the Province, should not be sustained. "Silver in New England is like the water of a swift running river; always coming and as fast going away," but this paper currency "is an abiding cash; for no man will carry it to another country, where it will not pass, but rather use it here, where it will, or, at least ought;" etc.†

A committee of the General Court, in 1701, proposed a bank, but it was negatived by the Council. Another movement for the establishment of a private bank was started, in 1714, by several gentlemen of Boston. Hutchinson says that they were "persons in difficult or involved circumstances in trade, or such as were possessed of real estates, but had little or no ready money at command, or men of no substance at all."

The scheme was that £300,000 should be subscribed and the same amount of notes issued. The subscribers were to mortgage their estates as an ultimate security against mismanagement, etc. Each subscriber was to take out between one quarter and one half of his stock in notes and keep them out at least two years, paying interest for them. All partners agreed to take the notes at a rate equal to the bills of credit of the colony. The tenor of the notes was that all the members of the company would take them in all payments "in lieu of" so many shillings, and that they would be so received for any pawn or mortgage in the bank.

One important allegation in favor of the bank, revealing a line of thought which we shall meet with often hereafter, was that it "would sever the connection between money and might." We also find the Land Bank seeking favor by propositions of a class often met with in the nineteenth century. They proposed to give a sum annually to the use of a hospital or charity school for the poor children of Boston, provided the inhabitants, at or before their general meeting in March, 1715, would order the Treasurer to accept their bank bills in payment of town taxes and assessments.

* Trumbull, 275. † Trumbull, 284.

As this project took more definite shape, it aroused great opposition, and in order to defeat it, a project was set in opposition to it for a further issue of colonial bills of credit—not for the expenses of government, but on a new scheme. The colonial government was to prepare and lend out on mortgage, in bills of credit, £50,000, repayable in five annual installments, with five per cent. interest. A public meeting at Boston pronounced in favor of the public bank. All the popular arguments were on its side. The Governor and Council forbade any private company to issue bills of credit for circulation without the authority of the General Court. Nevertheless the bank proceeded to make issues. In 1716 another "public bank" was made. £100,000 "was committed to the care of the county trustees; was proportioned to each county according to its tax; secured by mortgage estates of double the value of the sum borrowed; each loan not exceeding £500 nor being under £25, for ten years, at five per cent., paid annually; the profits to help pay for expenses of government, and the bills to be returned at the end of this period and burnt. Frequent litigations subsequently arose in the settlement of the mortgages for this money."

This is a specimen of the second kind of bank in the colonies, one which was adopted by all but one or two of the colonies and repeated over and over again. The sense of "bank" would be best expressed by batch, because it was applied to the mass of bills provided for and loaned out at one time, under one act of legislation. It would go beyond the limits of our subject to pursue this device as an experiment in currency. It may suffice to say that the colonists, in their issue of bills of credit, had hit upon a fact in monetary circulation which they did not understand and which is not, perhaps, fully understood yet. If they had been contented to use their bills of credit within very strict limits, to be ascertained by experiment, they might have carried on the system indefinitely, with complete success, and have conquered all their troubles from a "lack of a medium." The notion of a cheap money would, of course, have been a pure fallacy. No money can be cheap except to the issuer. If he gets it at the cost of manufacturing bits of paper, and can exchange these for commodities, in as large amounts as he could get for the coins whose names and denominations the paper bears, the currency would be cheap to him; but to those who gave the commodities for it, it would be no cheaper than the coins would have been. The paper currency in the colonies, however, might have overcome the difficulties which were due to lack of communication and transportation, and to obstructive legislation, and might have lifted the community out of barter. What actually happened was that the colonists employed this device without limitation or judgment. They pushed the bills of credit at once into their greatest abuse; which is, that any paper issued at will, unlimited by the hard facts of economic supply, can be multiplied in amount indefinitely. Then, instead of facilitating intercourse, it becomes the worst barrier to intercourse. The loan offices, also, under pretense of providing the farmers with the capital which they needed, only set

them to juggling with the frauds of fluctuating prices and dishonest contracts.

The colonists were not worse than their time. The mysterious and powerful functions of credit were developed in northern Europe, half by accident, in the latter half of the seventeenth century. The Land Bank scheme, Mississippi scheme, South Sea scheme, etc., were aberrations due to lack of comprehension of the nature and limits of the power which had been evoked. It was a marvelous thing to discover that a corporation, or a civil body, could emit notes and so borrow, yet win interest instead of paying interest on what it borrowed. This is what the colonies attempted to do. They were "lending" to their citizens the capital which was so much needed, and were at the same time winning an interest which paid the expenses of the State, and all at no cost but that of a little engraving and printing. The notion of credit which prevailed was that it was a way of making formulas of words do the work of capital, if only the formulas were imposing enough, or were uttered by a body having competent prestige.

As the Land Bank did not receive much encouragement, in spite of its connection with education, an alliance with internal improvements, the other great make-weight with which it was always connected for the next hundred and fifty years, was brought into its support. "Fifty thousand pounds ought to be laid out for making a bridge over the Charles river, so that workmen might be employed and currency enlarged, as well as the public accommodated; and ruin will come unless more bills of credit are emitted."

Trumbull says that nearly thirty pamphlets and tracts were printed, between 1714 and 1731, for and against a private bank or a public bank, the emission of bills of credit, and paper currency in general. One of the most notable of these is entitled: "A Word of Comfort to a Melancholy Country" and is a lamentation over the defeat of the Land Bank. Trumbull attributes it to John Wise, who, he says, has been called "the first logical and clear headed American democrat." He is chiefly concerned that a sufficient medium may be provided. The medium need not have value. It will do its work better if it has not. Coin is too costly, and New England cannot keep it. The merchants ship it off. The bills have done great things for Massachusetts. They have built the college, etc. He preferred a private bank under government inspection to a public bank.

In the meantime, the English had been going through a mania for joint stock companies, which were a new device of credit, the limits and conditions of whose utility had yet to be learned by bitter experience. After the crisis of this speculation in England, the Bubble Act was passed* which recited that many companies had, since June 24, 1718, presumed to act as corporate bodies and to make assignable shares without having legal authority so to do. After June 24, 1720, all undertakings to the prejudice of trade,

* 6 George I, C. 18, § 18.

and all subscriptions or cases of acting as corporations, without legal authority so to do, were to be illegal and void. Such organizations were to be deemed public nuisances, and those who made them would incur a *premunire*. Brokers were forbidden to deal in such shares. There was some doubt in law whether this statute extended to the colonies, but there was sufficient fear that it might do so to create alarm in the private bank, which had circulated notes in spite of the prohibition of the provincial authorities. The Governor was strictly enjoined by the authorities in England not to consent to any further issue of bills of credit. On this account, the treasury notes having been cut off, in 1733, "a number of merchants and others of Boston, in order to supply the deficiency of such a medium of trade, had recently engaged in a project of issuing paper to the value of £110,000. Rhode Island had also ordered a large emission of their bills, which, as usual, were expected to have their chief circulation in Massachusetts. With these facts laid before them, and concluding that by such causes their own bills would proceed from bad to worse, the General Court appointed a committee to examine them and make report." "Notified of such action, Governor Wanton replies, that the Rhode Island Assembly had enacted, in July last, to issue £100,000 loan, at five per cent. on land security. He adds, 'I do assure the General Assembly of the Province, we had an especial regard for the welfare of the public in said emission, and hope' that they 'will take care that trade may not be injured by a private emission now coming out without their sanction, as I am informed.' "

"The committee raised about the paper money in circulation make their report, which is accepted by both Houses. They state that the merchants' notes emitted by Boston gentlemen should be backed with greater security; and that his Excellency be desired to send out a proclamation, warning the people to be on their guard against taking the late bills of Rhode Island. The bills of the private bank, just mentioned, amount to £110,000, and were redeemable in ten years, with silver at 19s. an ounce, then the common rate of the Province paper. Though a great and imposing effort was made to keep the Rhode Island bills out of our market, yet they soon flowed in, and became current."

"The Governor thinks it is not expedient to issue a proclamation against both of these sorts of currency, though he is decidedly opposed to them. He gives his opinion that the Merchants' Bank ought not to do business without permission from the Assembly; and that such permission should not be allowed them, because falling within the limits of his prohibitory order from the Crown, to have only £30,000 in bills circulating at the same period. Still the merchants' notes were circulated, and accounted better by 33 per cent. than Province bills."

The following year the Governor declares that "the bills of the private bank or merchants' notes, instead of preventing a further depreciation of Province bills as it was confidently said, have had a contrary effect."

Connecticut granted a charter to a society in New London, 1733, for

trading. This society issued bills, "but their currency being soon at a stand, the government were obliged in justice to the possessors, to emit £50,000 on loan to enable those concerned in the society to pay off their society bills in colony bills. Their charter was vacated and a wholesome law was enacted that for any single person or society of persons to emit and pass bills for commerce, or in imitation of colony bills, penalty should be as in case of forgery, or of counterfeiting colony bills." *

In 1735, a private bank was formed in New Hampshire, to which reference is made in the following: "Whereas sundry persons of New Hampshire have adopted measures the past year to issue promissory notes of a most uncertain and sinking value, as they are payable in New Hampshire, Massachusetts, Connecticut, and Rhode Island bills, or in silver, gold or hemp, at the unknown price they may be at in Portsmouth, in New Hampshire, Anno 1747, whereby his Majesty's good subjects will be great sufferers, should they part with their goods and substance for them or accept of them in payment, etc." "This was a banking speculation, which promised much advantage to its promoters, but very little to the public. The larger amount of its paper, like all such currency of that day in New England, reached Boston—the great mart for the northern colonies; but placed under the ban of the law, its market was spoiled for this Province."

The tract concerning the Colonial Currencies, which is included in the Overstone collection, was published about 1740. The author shows how the depreciated paper money hurt the wages and salaried classes, because the depreciation with respect to specie never measured the loss in purchasing power. "The shopkeepers are become, as it were, bankers between the merchants and tradesmen [mechanics], and do impose upon both egregiously. Shop notes [store-pay], that great and insufferable grievance of tradesmen, were not in use until much paper money took place." The author thinks that he can prove that the specie value of the whole currency constantly declined as greater issues were made; and he shows how little cliques of persons who were possessed of political power got the loans into their hands, in the first instance, and sold them at a premium.

March 19, 1740: "In continuance of the controversy between the Representatives and the Governor, he repeats his account of the Province arrearages. He says that there are £210,000 in bills now circulating, £40,000 are on loan, and the rest, £170,000, former Assemblies have promised shall be collected into the Treasury, by a tax in the several years specified, by 1742, and that this will be a heavy burden, especially as no provision is made to supply the place of paper currency. Such being the pecuniary condition and prospect of the Province, several projects are advanced by companies to supply the deficiency of money. The petitions of these associations, being laid before the Legislature, and assigned to a Committee for consideration, are reported on. One of them was John Colman and 395

* Overstone Tracts: Colonial Currencies, 12.

others for £150,000, to be lent in notes on land security, and payable in twenty years by various articles of merchandise. Another was Edward Hutchinson and 106 partners, for £120,000, redeemable in fifteen years, with silver at 20s. an ounce, or gold *pro rata*. The latter was upon a plan similar to one before mentioned, and its bills were denominated merchants' notes. It was promoted in order to put down the other. Though the gentlemen appointed to consider them had less objection to the Specie Bank than to the Land, or as frequently called, Manufactory Bank, they give an opinion that both are inexpedient. In the Legislature, there is a diversity of opinion as to these companies. The Council express their wish that the Land Bank may be forthwith disannulled, but that the silver scheme, so called, be put over to the coming session. The Representatives, looking on the Land Bank as designed for people of moderate property as well as for the rich, manifest their desire that both suspend operations till the next Assembly, and then be considered as to their respective claims. This was the motion agreed on, and thus the petitioners earnestly looked for a hearing."

The Land Bank of 1741 was to be for the amount of £150,000 lawful money. Estates were to be mortgaged to the company. Three per cent. per annum was to be paid on loans in enumerated products of the Colony and the principal was to be repaid in twenty years (five per cent. per annum), in the same way. Mechanics, etc., might come in for not over £100 each, by giving two sureties for double the sum. [Evidently they meant to print and loan, in notes, at once to the stockholders the full amount of the stock subscribed. The mortgages carried no guarantee to the noteholders, except as they could be pursued through the company.] There were to be no dividends for five years, and after that none which should ever leave less than twice the principal paid in at the time. [They intended to trade with the products which were paid in.]

The notes were to read: "We promise for ourselves and partners to receive this 20 shilling bill of credit as so much lawful money, in all payments, trade, and business, and after the expiration of twenty years to pay the possessor the value thereof in manufactures of this Province." The projectors of this notable scheme had, probably, no intention of fraud, but their plan would have given them possession of the "manufactures of this province" to the amount of the notes issued by them, without any security or interest by them, for the term of twenty years. It was because they called it a "bank," and were "providing a medium" that their minds were obscured to the truth of the case.

At this time, the notes of the merchants, issued in 1733, were at thirty-three and one-third per cent. above the Province bills, being paid in gold and silver, and the notes of the Specie Bank of 1740 were equivalent to cash, the issuers being "eminent and wealthy merchants." This seems to sound as if the notes were actually convertible and converted; but it probably should not be understood that they were so in the sense of more modern times.

Gov. Belcher took strong ground of opposition to the Land Bank which had begun operations without authorization. He published a proclamation warning the people against the notes as fraudulent, contrary to civil order, and harmful to trade. He treated the bank as rebellious, since it was unauthorized, and he tried to compel all civil and military officers to abandon it. The Specie Bank also commenced business. The government was, in fact, generally so lenient and indulgent that it was very weak when it tried to exert authority. One project led to another until there was a bank mania in a small way.

These projects led to an extension of the Bubble Act to the colonies.* The act is entitled, "For restraining and preventing several unwarrantable schemes and undertakings in His Majesty's colonies and plantations in America." All clauses of the Bubble Act "did, do, and shall extend to, and are and shall be in force and carried into execution" in America.

The act went on to say that the occasion for it was the doubt whether the act of 1719 could be executed in America, because the aggrieved persons must, according to that act, bring suit in Westminster, Edinburgh, or Dublin. This act now provides that suits may be heard in any of the King's courts of record in America. Noteholders were given a right of action against each partner for the amount and interest, although by the tenor the note might not yet be due. Any person suffering harm might recover treble damages and costs; and the persons composing the company were liable to a *premunire*, according to 16 Richard II. These penalties were all to be arrested if the company should dissolve and go into liquidation before September 29, 1741.

According to the fashion of the times, this enactment was met in a recalcitrant disposition. All the jargon about liberty and the charter was repeated. The irritation produced in the Colonies by the attempts of the mother country to restrain paper issues contributed more than perhaps any other one thing to produce that estrangement which resulted in the Revolution. Upon this occasion the first impulse of those interested in the Land Bank was to defy the law, and it appears that the bank produced no little demoralization of civil institutions for a year. As we shall see below, the States fought unceasingly against unchartered issuers of paper, from the Revolution to the Civil War; and the federal government, in its dealings with Territories, which are a complete analogon to Colonies, has reserved to itself the right to disallow any legislative acts of the Territories and has exercised that right, notably in respect to banks.†

September 22, 1741, a committee of the General Court was appointed to meet at Milton "to examine the condition of the Land Bank. They find £49,250 of its notes are struck off and endorsed and that the Treasurer had issued them from his hands to the amount of £35,582, and that the directors employ £4,067 of them in trade. This investigation is soon followed with heavy restrictions upon the funds of the company."

* 14 George II, C. 37.

† See index: Territories, banks in the.

March 30, 1742: "A Committee for the settlement of the Land Bank publish a pressing call on its stockholders to settle its demands upon them. This call contains the succeeding items." "It is now nine months since the company's vote at Lynn that no more bills should be issued out of the Treasury till the next meeting, and more than six months since the vote passed at Milton to bring in and consume to ashes all the outstanding bills. By the delay of those indebted to the institution, our company is thrown into the last extremity of confusion; and without the most speedy measures are pursued in bringing in the bills, the consequence will, we fear, prove ruinous to some hundreds of the partners. The possessors of our bills are more and more uneasy every day as that part of their estates lies useless by them, and so incessant in their worries, that the directors have in their late advertisement implicitly threatened to be on the possessors' side against the delaying partners."

This bank is heard of again and again during the following twenty years. The surviving or solvent stockholders and their heirs were subject to repeated demands from the noteholders, which they seem to have evaded to the best of their ability.

There is a tradition that there was a bank in Virginia before the establishment of the Bank of North America.* A special loan office was proposed there in 1765, to enable the Treasurer of the colony to make good public funds which he had loaned to his friends, but it failed.† The tradition may more probably be based upon an Association referred to in an act of 1777: "Whereas divers persons have presumed upon their own private security to issue bills of credit or notes payable to the bearer in the nature of paper currency," a penalty is imposed upon those who "issue or offer in payment" any such notes without the authorization of the Commonwealth, of ten times the amount of the note, half to go the informer.‡

* Gouge: Journal of Banking, 412. † 1 Henry's Henry, 76. ‡ 9 Statues at Large 431.

PERIOD II.—1780 TO 1812.

Banks are Incorporated in the States, also a Bank of the United States on the type of the Bank of England. The Colonial idea is continued in Banks of the States, being Institutions based either on the "Faith and Credit" of the State alone, or on a Combination of Public Funds with Private Subscriptions.

CHAPTER II.

The Earliest Banks of Discount, Deposit, and Convertible Circulation.



T can cause no wonder that when the Revolution broke out, deep suspicion and prejudice were entertained against everything by the name of bank. It was only under the pressure of great fiscal necessity that the unwillingness to entertain any project under this name was overcome.

In a speech in the Pennsylvania Assembly, in 1786, in the debate about the Bank of North America,* Robert Morris said that although the proprietary government "had no idea of a bank, the commercial men of the Province had, and I, as a merchant, laid the foundation of one, and established a credit in Europe for the purpose. From the execution of this design, I was prevented only by the Revolution."† Silas Dean submitted to Congress a plan for a bank with a capital of a million and a-half pounds sterling.‡ It was suggested in the scheme of reconciliation, which the Carlisle commission brought to America, that a bank might be formed to provide for the retirement of the Continental paper currency. Alexander Hamilton was forming bank projects as early as 1779, although the plan which he then formed may never have left his own hands. April 30, 1781, he sent a paper to Robert Morris, containing a complete discussion of the financial situation, and the measures required. He wanted a national bank, the chief reason being "we have not a sufficient medium." The capital was to be £3 millions, lawful money, to be paid in landed security, specie, plate, bills of exchange, or

* See page 18. † Carey's Debates, 37. ‡ 1 Diplomatic Correspondence of the Revolution, 160.

European securities. About one-third was to be in specie. The United States and the States might subscribe not more than half of the capital. The notes under £20 were to bear no interest, the larger ones, four per cent. The bank was to buy land, from which Hamilton thought that great gains might be made because the tories would put much land on the market, and sell it cheaply. Depositors were to pay a fee for the safe keeping of their money. The bank was to lend Congress £1.2 millions at eight per cent. Taxes were to be levied, the revenue from which should be specially appropriated to pay the interest on this loan. Other revenues were also to be raised sufficient to pay the bank two per cent. on all the Continental paper outstanding, at 40 for 1; for which provision the bank was to guarantee the paper and retire it in thirty years. There were to be three auxiliary banks in Massachusetts, Pennsylvania, and Virginia.* Morris replied that he was afraid to "interweave a security with the capital of this [his] bank, lest the notes should seem to be circulated on that credit, and the bank would fall if there should be a run on it."

The next step in the development of banking was independent of these projects. On the 4th of June, 1780, Thomas Paine wrote to Joseph Reed, urging that a subscription should be raised to obtain recruits and supplies for the army, which was in a very sad condition. It was expected every day that news would come of the loss of Charleston. The public were very despondent. Many members of the Pennsylvania Assembly had brought up petitions against taxation. Paine was then clerk of that body. He says that he subscribed $500, and that the next day M'Clenahan and Morris subscribed each £200 in hard money. On the 14th came the news of the loss of Charleston. On the 17th a meeting was held, at which a syndicate was formed to raise £300,000 of Pennsylvania currency, but in real money, the subscribers to execute bonds for the subscriptions and form a bank.† The Board of War informed Congress of this project, and asked that a committee be appointed to confer with the subscribers. The offer of the persons who formed the so-called bank was to provide, on their own credit and by their own exertions, three million rations and three hundred hogsheads of rum, without profit to themselves; but they desired that security should be given them for their payment. The faith of the United States was pledged to them and the Board of Treasury was directed to deliver to them bills of exchange, drawn in their favor, on the Envoys in Europe, for a sum not exceeding £150,000 sterling, as a guarantee of payment within six months.‡ Morris described this bank, some years later, as "in fact nothing more than a patriotic subscription of Continental money, * * * for the purpose of purchasing provisions for a starving army." Hamilton criticised it because its purchases were made with its "stock," that is, its capital, and not with its notes; so that it was only a subscription for a single occasion, and not an institution capable of continued action.

* 3 Works, 61, 86. † 1 Paine's Works, 372. ‡ 6 Journal of Congress, 66.

From these statements we may infer what the plan of this bank was. Continental or State paper was brought into it as a subscription, for which the subscriber obtained the interest-bearing notes of the bank, payable in six months. The supplies were bought with the currency which the subscriber had brought in. The bills drawn on the Envoys were held as collateral security until Congress should pay for the supplies. Those bills might be negotiated, but it was the understanding that they should not be; for it was well understood that they were not drawn for value, legitimately at the disposal of the drawer, but would impose an obligation on the Envoy on whom they were drawn to borrow or beg funds to meet them, so that they would be honored or not according as he succeeded.

This institution was called the Bank of Pennsylvania, and began operations July 17, 1780, in Front street, two doors above Walnut. The last installment of the subscription was called in November 15th. The last payment in discharge of the debt of the Confederation to it was made in 1784. Some attempt seems to have been made to repeat its operations, for, November 29th, the Pennsylvania Assembly appointed a committee to confer with the directors on the practicability of an immediate supply of corn and forage for the army, on three or six months' credit, to be paid for in current money of the State, equal in value to gold and silver.* In May, 1781, Reed, who was of the anti-bank party, wrote to Washington that the notes of the bank would no longer circulate; that they soon lost credit, but that the bank ruined the paper money of the State.†

In May, 1781, before he had assumed the office of Financier, Robert Morris submitted to Congress a plan of a bank, which had been prepared by Gouverneur Morris.‡ "Anticipation of taxes and funds," he wrote, "is all that ought to be expected from any system of paper credit."§ By this he meant that paper could only be used to anticipate the return from taxes by which the paper would be canceled. He proposed that Congress should apply to the States for power to incorporate the bank, and he hoped that the States would make its notes receivable for taxes.

May 26, 1781, Congress approved of the plan of the Bank of North America as follows: There were to be one hundred shares of $400 each, with liberty to increase the capital. The state of the cash account and circulation was to be made known to the Superintendent of Finance every evening except Sunday. The States were to make the notes, if payable on demand, receivable for duties and taxes. The Superintendent of Finance was to have access to all books and papers. The States were to make laws to punish embezzlement in the bank as felony. No director was to be paid for his services. On the question of incorporating the bank, Massachusetts voted no; Pennsylvania was divided; Madison voted no. Congress asked the States not to charter any other bank during the war, and to pass the other votes called for by the plan.

* 1 Pennsylvania Journals, 542. † 2 Reed's Reed, 300. ‡ 1 Morris's Morris, 15.
§ 11 Dip. Corr. Rev. 364.

Great efforts were necessary to recommend this plan to the public. Morris was enthusiastically zealous in favor of it. "I mean to render this a principal pillar of American credit, so as to obtain the money of individuals for the benefit of the Union, and thereby bind those individuals more strongly to the general cause by the ties of private interest." In this passage he uttered one of the favorite notions of the group of public men to which he belonged; that it was wise and necessary, by various devices and institutions, to enlist the interest of capitalists in the political system which had been founded. "When once by punctual payment the notes of the bank obtain full credit, the sum in specie which will be deposited will be such that the bank will have the interest of a stock two or three times larger than that which it really possesses." A reason for establishing the bank is "that the small sums advanced by the holders of bank stock may be multiplied in the usual manner by means of their credit, so as to increase the resource which government can draw from it, and at the same time, by placing the collective mass of private credit between the lenders and borrowers, supply at once the want of ability in the one and of credit in the other." In these passages he uttered the doctrines of bank inflation, which led Gouge to call him the "father of paper money banking in the United States."

In making some historical statements about this bank, in the debates of 1786, he said that, up to September 1st, the subscriptions had not exceeded $70,000. In that month, the French man-of-war "Magicienne" arrived at Boston with $462,862 in silver, which John Laurens had obtained from the French government. This was carted overland to Philadelphia and put in the bank, but half of it was drawn out and spent before the bank commenced operations.

In June, 1781, he reported to Congress that the chief hindrance to the organization of the new bank was that the amount due to the Bank of Pennsylvania had not been paid. He thought that if it could be paid, the persons entitled to it could be persuaded to subscribe it into a new bank. Congress was not willing to sell the bills lodged as security because of the annoyance that would be occasioned to the Envoys who were the drawees. Morris asked that the bills be put at his disposal, and proposed to arrange the transfer, and use the bills, so that they would not be presented for a long time, or not at all. In this he succeeded.*

A meeting was held, November 1st, to organize the new bank. It consisted of the members of the Bank of Pennsylvania and nine others.† The act of incorporation was passed by Congress, December 31st, and the bank commenced business January 7, 1782, on the north side of Chestnut street, a short distance west of Third. There was a clause in the charter that "This ordinance shall be construed and taken most favorably and beneficially for said corporation." This clause was copied into State charters and became a

* 7 Journal of Congress, 107. 11 Dip. Corr. Rev. 376.

† Lewis; Bank of North America, 33.

standing feature of them in some States. Robert Morris was one of the largest stockholders, but was never a director or other officer of the bank. Thomas Willing was president. The day that the bank went into operation, Morris noted in his diary that he had paid into it $200,000 for the subscription of the United States.* Gouge doubts whether there ever was any subscription to this bank except that of the government, believing that even the $70,000 above mentioned consisted of bonds transferred from the Bank of Pennsylvania. He claims to have undoubted private authority for the statement that people who were interested in the Bank of North America sent farmers and laboring men to the bank to get silver for notes. "When they went on this errand of neighborly kindness, as they thought it, they found a display of silver on the counter and men employed in raising boxes containing silver, or supposed to contain silver, from the cellar into the banking room, or lowering them from the banking room into the cellar. By contrivances like these, the bank obtained the reputation of possessing immense wealth; but its hollowness was several times nearly made apparent, especially on one occasion when one of the co-partners withdrew a deposit of some $5,000 or $6,000 when the whole specie stock of the bank did not probably exceed $20,000."† It is possible that this story arose from a confusion between the Bank of North America and "an appendage of the finance office;" for Robert Morris had a bureau in his office, in which borrowed silver was laid out, in order to establish a fictitious credit for the Treasury.

In his report of his management of the Treasury Department, submitted in 1785, Morris said of the government subscription: "It was principally upon this fund that the operations of that institution were commenced, and the accounts which end on the last day of March [1782] will show that the public obtained, before that day, a loan of $300,000, being the total amount of their then capital. This loan was shortly after increased to $400,000, * * * but the direct loans of the bank were not the only aid which it afforded. Considerable facilities were obtained by discounting the notes of individuals, and thereby anticipating the receipt of public money; * * * and in addition to all this, it must be acknowledged that the credit and confidence which were received by means of this institution formed the basis of that system, through which the anticipations made within the bounds of the United States, had, upon the 1st day of July, 1783, exceeded $820,000. There was due also, upon that day, to the bank directly, near $130,000. If, therefore, the sum due indirectly for notes for individuals discounted and the like be taken into consideration, the total will exceed $1 million. It may then be not only asserted but demonstrated that without the establishment of the national bank, the business of the department of finance could not have been performed." He borrowed of the bank during his administration $1,249,975. He repaid this in cash, except $253,394, which was paid by surrendering the stock owned by the United States. The United States paid

* 12 Dip. Corr. Rev. 26.

† Journal of Banking, 237.

for interest on loans $29,719, and obtained in dividends $22,867.* The date, July 25, 1783, is given as that upon which private individuals had taken up all the shares originally subscribed by the government.† It is safe to say that this, the first "specie paying, convertible bank note bank" in this country, never could have started but for the silver borrowed by the government from France and placed in its vaults.

There was much doubt about the power of Congress to pass an act of incorporation. The Virginia delegates reported to the Governor of that State that they had consented to the act on account of the utility of the bank, but that the States ought to ratify the act of Congress. The bank determined to seek a charter from Pennsylvania. Objections were made in the Assembly that the charter was perpetual; that the bank had power to hold real estate; and that the president of it had encouraged negotiations with General Howe during the war.‡ Nevertheless the act was passed April 1, 1782. An act had been passed a fortnight earlier, in that State, making it felony to counterfeit the notes of the bank.

In 1782 a proposition was made to Robert Morris to found a bank in New Hampshire. He declined and nothing came of it.

In 1784 and 1785, the Bank of North America earned 14 per cent. In the former year it enlarged its capital by issuing 1,000 more shares at $500 each. This led to the foundation of a rival institution which was on the point of being chartered, when the new subscription was extended to 4,000 shares at $400 a share, and those who had already paid in $500 received $100 back with interest. At the same time the affairs of the bank became disordered on account of over-extension of its business in the attempt to defeat the new bank. For the safety of the community "it became absolutely necessary to drop the idea of a new bank, and to join hand in hand to relieve the old bank from the shock it had received. Gold and silver had been extracted in such amounts that discounting was stopped, and for this fortnight past not any business has been done at the bank in this way. The distress it has occasioned to those dependent on circulation and engaged in large speculations is severe; and as if their crop of misery must overflow, by the last arrival from Europe, intelligence is received that no less a sum than £60,000 sterling of Mr. Morris's bills, drawn for the Dutch loan, are under protest. It is well known that the bank, by some means or other, must provide for this sum. The child must not desert its parent in distress; and such is their connection that whatever is fatal to the one must be so to the other. * * * I have had several interviews with our friend, Gouverneur Morris. He is for making the Bank of New York a branch of the Bank of North America; but we differ widely in our ideas of the benefit that would result from the connection."§ Disquieting rumors about the bank had been current in Holland in the previous January, where it had been reported that the

* Nourse's Report, 1790. † Lewis, 135. ‡ Lewis, 45.
§ Seton to Hamilton, from Philadelphia, March 27, 1784.

bank had stopped payment on account of a great number of counterfeits in circulation.*

The bank had been born of necessity, real or supposed. At the time that it was chartered many public men had felt themselves in a dilemma between the political danger and the financial exigency. As soon as the war had ended and the financial exigency seemed less obvious, their minds turned with greater submission to the fear of political danger. The mass of the people, so far as they thought of the matter at all, feared the bank as an engine of the money power, and anticipated great social and political dangers from it. This view of the matter was put forward with great energy by the class of public men who sought to be popular leaders, and also by those who were working in the interests of rival enterprises.

Petitions were presented to the Legislature, March, 1785, for the repeal of the act incorporating the bank, on account of the financial, social, and political dangers connected with it. A committee was raised "to inquire whether the bank established at Philadelphia was compatible with the public safety and that equality which ought ever to prevail between the individuals of a republic." The committee reported that the bank, as then managed, was in every way inconsistent with the public safety, and recommended that its charter be repealed. The bill for the repeal went over the session, but was taken up on the first day of the Autumn session of the same Assembly. Counsel of the bank were allowed to argue before the House, but, on the 13th of September, 1785, the charter was repealed.

The bank now fell back on its federal charter, but there were so many doubts of its validity that the attempt was made to get another State charter. February 2, 1786, Delaware gave one, which was accepted, and it was determined, if necessary, to move to some city in Delaware.

A bank war was now opened in Pennsylvania, which contained in miniature all the elements of the war that raged around banks for the next fifty years.

March 3, 1786, a memorial from 624 citizens of Philadelphia in favor of the bank was presented, in order to bring the matter up again. In the debate there were two lines of thought and argument; one in respect to the social effect of a bank on classes, and the other in respect to the political effects of a bank on democratic and republican institutions. Morris took a very prominent part in these debates and caused them to be published. We learn from his statement that, in this bank, loans upon its own stock were regarded as its most regular kind of business, and the stockholders were thought to be warranted in borrowing to the extent of their stock. The proposed re-charter of the bank was defeated in April.

At the opening of the November session it was evident that a great deal of work had been done and that a great change had been brought about. A committee reported that some amendments in the charter would make it

* 8 Life and Works of John Adams, 174.

free from objection. The bank was re-chartered March 17, 1787, for fourteen years. Its capital was limited to two million dollars.

It is stated that the Bank of North America issued penny notes about 1790.*

The first and one of the most important services rendered by banks in the United States was inculcating punctuality. At the end of the Revolutionary war, Philadelphia was the only place in the country where commercial punctuality was general. Banks introduced it elsewhere.† The great fault of the banks, however, was that they did not impose punctuality on themselves or each other.

The first bank chartered, after the peace, was the Bank of Massachusetts, February 7, 1784. The charter was originally perpetual, but was limited, in 1812, with the consent of the bank. Amongst the rules of this bank were: the full names of all delinquents to be posted in the bank, in order to avoid useless applications for credit; absolutely no renewals.‡

A scheme was published in the New York "Packet," February 12, 1784, for a Bank of the State of New York. Subscribers to the stock were to pay one-third in cash and the other two-thirds in mortgages on land in New York and New Jersey, appraised at not more than two-thirds of its value. If necessary, the directors were to borrow one-third of the value of the land. A fortnight later a meeting was called to found a bank, but on specie only. Alexander Hamilton attributed the land bank scheme to Chancellor Livingston, who, he said, had carried on a zealous propaganda in its favor. In order to defeat it, Hamilton started another scheme, and he also endeavored (as it appears, successfully,) to show the fallacies in the notion of a land bank. A constitution for the bank was drawn up, undoubtedly by Hamilton. One of the rules was that the bank should not deal in foreign exchange. There was so much eagerness to start the bank, that it began in June without a charter. The rule was adopted: "No discount will be made for longer than thirty days, nor will any note or bill be discounted to pay a former one. Payment must be made in bank notes or specie."§

Loud complaints were raised against this bank as soon as it went into operation. It was charged with working in the interest of British capitalists and traders, but it is plain that the chief ground of complaint against it was the punctuality which it enforced. It will be seen, in the course of this history, that the real occasion of the unpopularity of banks, in their early history, was that they were having this effect, which produced irritation and resistance. This opposition prevented the bank from obtaining a charter. It also stimulated a paper money party which wanted a State issue, and obtained it in 1786. The directors of the Bank of New York thereupon decided to keep two sets of accounts, and in fact they organized two banks—a "specie bank" and a "paper bank"—the latter doing business on the State paper; the former using the denomination dollars and the latter pounds. A

* Gouge; Journal of Banking, 408.
† Blodgett; Economica, 161; 3 Gallatin's Writings, 370.
‡ 7 Bankers' Magazine, 4.
§ Domett; Bank of New York, 10, 19.

charter was at length obtained in 1791. One clause of it was that the bank should not emit any notes or contract debts payable in the State paper.

In point of time the charter of the Bank of Maryland was earlier than that of the Bank of New York, being dated 1790. The Bank of Providence, Rhode Island, was founded in 1791; the Bank of Albany, the Bank of South Carolina, unchartered, and the Union Bank of Boston in 1792. In the last year also the Hartford Bank was founded, the State reserving the right to take forty shares within twelve months. The historian of this bank thinks that its assets, at its outset, "consisted mainly of the promissory notes of stockholders endorsed by each other, with a moderate sum of silver, a light sprinkling of gold drawn from old hoards, and possibly a few notes of the Bank of North America."* One of the rules of this bank was: "What passes in the bank not to be spoke on at any other place." This expresses the mystery with which banking at this time was surrounded. Every bank was a secret society.

The Bank of Alexandria, Virginia, was founded November 23, 1792, with a capital of $150,000, increased in 1795, to $350,000. The lowest denomination of notes was five dollars. Its debts were never to exceed four times its capital. Its charter was to last ten years. It was given power for the summary collection of debts, which were not liable to the stay laws existing in the State at the time. It appears that this bank was not founded without occasioning alarm. Pope, of Kentucky, in the debate of 1811, said that the Virginians were known to be poor financiers, for they "were, a few years since, frightened at the very name of a bank. * * * * It required all the eloquence of [Brent of Virginia] to persuade the Legislature that the little Bank of Alexandria would not sweep away their liberties." A month later the Bank of Richmond was founded, with $400,000 capital, to last until 1804, with similar provisions. A statement is met with that from 1787 to 1804 there were no banks in Virginia, except the branch of the United States Bank at Norfolk, founded in 1799, and that the circulation was metallic.†

It should be noticed that when banks began to be founded, the notion of a national bank for each State was the conception on which they were constructed. The Bank of Massachusetts was expected and intended by its founders to be the only bank in Massachusetts, and the Bank of New York was founded on that plan; whether it should be called a hope or an intention is difficult to decide. In the Southern or Southwestern States, this notion of a Bank of the State became the source of a great number of institutions which will deserve our particular attention. Such a Bank of the State might exist, like the Bank of England, or the Bank of France, although there might be any number of other banks by the side of it in the same State. One consequence, which causes very great perplexity in the case of the great Banks of the States, is that the nomenclature becomes confused. We find a Bank of South Carolina, a State Bank in South Carolina, and a Bank of

* Woodward; Hartford Bank, 60.

† Gouge; Journal of Banking, 253.

the State of South Carolina; in other cases the same name was given successively to two or three institutions which succeeded one another in time, and were all called the Bank of the State of ———.

Inasmuch as the term State Banks is used for local banks, it seems desirable to speak always of Banks of the States when that particular group is intended, for they deserve a separate name.

Leaving out of account those Banks of the States in which the participation of the State was limited to the possession of some stock in the bank, and which may be better thrown out of this group altogether, we may distinguish three grades of Banks of the States. 1.—Those which had no capital at all, being "based upon the faith and credit of the State." These were paper money machines. 2.—Those in which funds belonging to the State were deposited as a capital. It was argued that the State might better "bank on" its own funds, for schools, improvements, income from lands, etc., than invest them in loans to private banks or otherwise. 3.—Those which combined with the latter arrangement, capital subscribed by private individuals.

CHAPTER III.

The First Bank of the United States and Its Times.

THE act of 1789, laying duties on imports, provided that they should be received in gold and silver only. In April of the following year, Hamilton made a report on the operation of this law, in which he construed it to mean that he might receive the notes of banks "issued on a specie fund;" and he thought that this would be advantageous to the government, the banks, and the public. Hence he had ordered bank notes to be received where banks existed, but the measure was understood to be temporary, and would be changed whenever a national bank was founded. *

One of his pet ideas was a national bank. He submitted a paper to Congress, December 13, 1790, to prepare the way for the proposition he wished to offer. This paper shows that he had very much developed his ideas on this subject since the earlier plans made by him, which we have already noticed. The charter of the Bank of New York, which came from his hand, became the model on which numberless charters were afterwards constructed, and the charter of the Bank of the United States, which he now proceeded to make, was taken as a model by so many others that we must attribute to his opinions on banking a predominant influence in forming the banking institutions of this country. The first great advantage which he sees in a bank is that it augments "the active or productive capital of a country." In the explanation of this, which he gives, he entirely avoids the fallacy which would seem to be involved in the statement. He illustrates it by the case of a man who deposits a surplus while waiting to put it to use, so that it "is in a condition to administer to the wants of others, without being put out of his own reach when occasion presents." He has in view, therefore, not any creation of capital, but a more effective organization of capital, by which small and scattered amounts are so concentrated as to be made effective instead of being idle. Upon this view it would follow that when one man wanted his capital some other man would probably be desirous of

* 1 Folio Finance, 49.

making a deposit; from which it would result that some constant amount within limits could be depended upon. Unfortunately, however, Hamilton mixed up this sound and useful view of a bank with the popular misconception: "It is a well established fact that banks in good credit can circulate a far greater sum than the actual quantum of their capital in gold and silver." This is the fundamental notion of all juggling with bank issues. He here planted a germ which, as we shall see, grew to a great size and produced most evil fruit. It taught the banker to believe that his legitimate business was to carry on a kind of high class confidence operation. Next Hamilton speaks about the cases in which the operations of banking legitimately consist in setting off things against each other, which balance; but he introduces the cases as if they explained the possible inflation of bank issues, and as if they explained the transactions with actual deposits mentioned in the first place. Having mixed and confused these three things, he concludes: "This additional employment given to money, and the faculty of a bank to lend and circulate a greater sum than the amount of its stock in coin, are, to all the purposes of trade and industry, an absolute increase of capital." The confusion here introduced was important and unfortunate, especially as regards the confusion between deposits of surplus capital and the supposed increase of capital by the circulation. The gains of a bank must come either from its deposits or its circulation. Until the middle of the nineteenth century the deposits of surplus capital, even in the larger cities, were small, for the reason that capital was always in such active employment that surpluses waiting for employment were not formed. Any encouragement, therefore, which was given to the notion already so widely current that paper issues could increase capital was directly mischievous. Hamilton went on to connect this also with the opinion which he said prevailed that there was a lack of a sufficient supply of money. He thought that the use of barter in remoter districts was a proof of this, and he showed that he participated in the belief that a bank could increase the amount of circulating medium in a country,—that is, not only increase the amount of capital available for employment in industry, but also increase the amount of currency acting on prices and available to pay debts. As the confusion of these two things has been the most profound and most mischievous error in the entire currency history of the country, the fact that he shared in it and lent it his authority was most unfortunate for the subsequent history. "It is evident," he says, "that whatever enhances the quantity of circulating money adds to the ease with which every industrious member of the community may acquire that portion of it of which he stands in need, and enables him the better to pay his taxes as well as to supply other wants." This has ever been a popular notion, and his enunciation of it was no doubt one of the most effective recommendations of his plan.

Answering objections made against banks, he shows that they bring about punctuality, and he answered very correctly the complaint that, if foreigners owned the stock, there would be a drain of specie to pay their

dividends; but it does not appear that these arguments had any effect on public opinion. He also laid down the doctrine, which may be called the kernel of the "credit system," which was made the subject of so much debate and eloquence in the next fifty years,—namely: that banks help honest, industrious, and enterprising men by furnishing them the capital, which is the only thing they need to become very efficient producers, and that they help the same class of men, when they have met with misfortune, to recover. As to the abundance or lack of the precious metals, that seems to him to depend on the balance of trade; and he is quite sure that each state ought to have a supply of "the money of the world," and of the metals which are a "species of the most effective wealth." "Notwithstanding some hypotheses to the contrary, there are many things to induce a suspicion that the precious metals will not abound in any country which has not mines or variety of manufactures."

He condemns State issues. "Though paper emissions under a general authority [*i. e.*, federal] might have some advantages not applicable, and be free from some disadvantages which are applicable, to the like emissions by the States separately, yet they are of a nature so liable to abuse, and, it may even be affirmed, so certain of being abused, that the wisdom of the government will be shown in never trusting itself with the use of so seducing and dangerous an expedient." He next points out the exact difficulty and danger of such issues, although at the same time his argument exposes the fallacy of the doctrine which he had just stated, that banks could increase the amount of circulating medium. "Among other material differences between the paper currency issued by the mere authority of government and one issued by a bank payable in coin is this: that in the first case there is no standard to which an appeal can be made as to the quantity which will only satisfy, or which will surcharge the circulation; in the last, that standard results from the demand. If more should be issued than is necessary, it will return upon the bank."

If that is so, how can a bank "enhance the quantity of circulating money?" If his reasoning is correct, (and it is that which is accepted by all the best authorities), it is far more certain that there can be no deficiency below the "standard" set by the "demand;" for it would be satisfied by obtaining specie. In short, the reasoning, in order to be thrown into correct and productive order, must begin with and proceed from the notion of the requirement as the predominant and coordinating conception.

We are not without a verdict of history upon these notions of Hamilton about bank currency. The keynote of his doctrine, and the keynote of the banking system of the next fifty years is in the following passage: "Gold and silver, when they are employed merely as the instruments of exchange and alienation, have been, not improperly, denominated dead stock; but when deposited in banks to become the basis of a paper circulation, which takes their character and place as the signs or representatives of value, they then acquire life, or in other words, an active and productive quality." The

Bank Commissioners of Ohio, in 1842, in the bitter retrospect of the previous five years, quoted these words in order to say: "The experience of more than half a century since this opinion was expressed has failed to convince the American people that gold and silver are to be regarded as dead stock, except when placed in banks as a basis for the issue of their paper. This idea that gold and silver acquire life, activity and productiveness, only when placed in banks as a basis for paper issues, rests upon the assumption that bank notes, to an indeterminate extent, may be thrown into circulation, and that a proportionate increase will be given to the commercial, manufacturing, and agricultural interests of the country." Out of the same period of sackcloth and ashes, when delusions had been dispelled and things appeared in their naked truth, the Governor of Ohio said: "The great error which prevails on this subject [banks of issue] has its origin in the common, vague impression that we are dependent on the bank paper system for the supply of a sufficient quantity of the circulating medium, and that, without bank paper, commerce would not flourish, business would stagnate, and the country cease to advance in prosperity and improvement. This fallacy is the chief cause of that superstitious attachment to the paper system which with some has become idolatry." "Vain indeed would be the attempt to hedge in the circulating medium of a country and pump it up to fullness by the ministry of banking institutions."

Hamilton also laid great stress on the function of banks to make loans to the government in case of financial exigency, and also to help tax payers to pay taxes. Loans to government lock up the capital of a bank and make it cease to be, as a bank. Although a bank might loan capital for the payment of duties (the case, in fact, which Hamilton puts in illustration), it certainly would not lend a man means to pay his personal taxes, which are an irrecoverable expenditure. These two points belong under the head of the political functions and benefits of a national bank. They were very prominent amongst Hamilton's motives for wanting one. Furthermore, without dilating upon it, he put into a very concise and pointed statement his view of the political philosophy of a national bank. It "is not a mere matter of private property, but a political machine of the greatest importance to the State." The history of the first Bank of the United States, and still more that of the second one, is a most instructive experiment to test the validity of this conception of such an institution under the political and social circumstances of the United States.

Finally he makes an argument against two of the pet ideas which we have already seen so active in connection with financial devices from the first settlement of the country—namely, the notion of paper issues on land security, and the notion of banking by the State, as a means of profit by which public expenditures may be provided for without taxation. His arguments on these points apparently had no effect, for we shall find that these two notions held sway for fifty years more, and were more destructive to the happiness and prosperity of one section after another than pestilence or famine.

This paper, therefore, consists of a jumble of ill-digested observations, in which correct and incorrect views are entangled with each other. In reading it, as in the case of Hamilton's other economic papers, the reader is constantly forced to think: If this writer had read Adam Smith, he would have been led to just that refinement of analysis and elucidation of his ideas, which would have led them out of crude inaccuracy into exactitude and correctness. That Hamilton had perused Adam Smith's book is unquestionable. This only makes it the more remarkable that a man of his well-proved mental power, should give such evidence that Smith's book had not affected his thinking, to any ascertainable degree.

In the debate upon the charter of the first Bank of the United States, in the House of Representatives, three elements may be distinguished, the constitutionality, the social antagonism, and the sectional antagonism. The first turned upon the question whether the government of the United States, which had been created by the Constitution, was endowed with the power to pass acts of incorporation. Madison was the leader of the negative, and, both by his authority and his arguments, furnished that side with its chief strength. He affirmed that the Constitutional Convention had refused to insert amongst the powers of Congress, that to incorporate, because it had been said that this would give the power to make a bank. Inasmuch as the question of power to incorporate a bank had arisen in respect to the Bank of North America under the Confederation, the non-conferment of this power in the new Constitution was undoubtedly a pregnant omission. The advocates of the bank had no little difficulty to find a clause under which it could be implied. Hamilton, when called on by Washington to submit an argument on the objections which had been raised against the bank, put its constitutionality on the ground that the Constitution had created a sovereign state, endowed with all necessary powers for the functions which it was called upon to perform. The opponents gave to "sovereignty" its most absolute and abstruse meaning. One of their chief reasons for detesting the bank was that they thought that it would help to support the conception of the federal Union as a confederated state with sovereign powers. Thus the bank was placed from the outset in the midst of the battle of State rights. They also construed the power to incorporate as an especially majestic and prerogative function of a sovereign. Hamilton met the former issue quite squarely. He construed acts of incorporation as no more awe-inspiring than other acts of legislation, and presented the bank as a pure question of legislative expediency.

The social antagonism reached little other expression than a growl of suspicion and dread that this institution was to be an engine of the money power; that it was contrary to equality; that it would benefit only the rich.* This antagonism was but an incident in the great warfare inside of modern society; numbers against capital; democracy against plutocracy;

* There is no limit to the flexibility of political arguments. The argument against the Bank of England when it was founded was that banks had never existed except in republics and were unfit for monarchies.

the struggle to acquire against the vested interest; the caprice of the moment against the established institution.* This struggle in all its phases will be seen raging around both the first and the second Bank of the United States.

The sectional antagonism included also the antagonism of city against country. The North had the free capital, because the planters could always employ more capital than they could get, on their lands. The North also had commerce and a diversified industry. The South was agricultural; it had fewer and smaller cities; its views and prejudices were strongly marked by these peculiarities. It was a special complaint of the southerners that only federal stocks were subscribable into the stock of the bank. These stocks had passed into the possession of the North, the southerners having sold them in order to use the capital on the land. Their State stocks could not be subscribed.

The first objection, that about the constitutionality of the Bank, occupied by far the most attention in the debate. It suited the temper of the time. It deserves our especial notice because it never was silenced until, in Tyler's time, it extinguished a great national bank as an American institution.

The charter passed the House, February 25, 1791, thirty-nine to twenty. There were three votes from the north of the Potomac against it, and three from the south of the Potomac for it.

There is a tradition that Washington wrote a veto of the Bank act, but that Hamilton persuaded him to sign it. No evidence can be found to support this tradition.

The Bank was chartered for twenty years; to be located at Philadelphia; to issue no notes under $10; to have twenty-five directors; only stockholders residents of the United States might vote by proxy; seven directors were to constitute a quorum; no foreigner was to be a director; the directors were to elect the president, who was to be compensated while the directors were not to be compensated; one quarter of the directors were to be elected each year; one share was to have one vote, three shares two votes, five shares three votes, and so on until one hundred shares had twenty votes. The Bank was to report to the Secretary of the Treasury at his demand not oftener than weekly, and that officer might inspect the books except private accounts. The notes of the Bank were to be receivable for dues to the Treasury of the United States. The Bank was to hold no land or buildings except for its own use or by foreclosure. It was not to buy or sell goods except forfeited collateral. It might sell but not buy public stocks.† The rate of interest was limited to six per cent. The Bank was not to loan the United States over $100,000 without an act of Congress, nor any State more than $50,000, nor any foreign potentate anything. Congress was to charter no other bank. The capital was to be $10,000,000 in shares of $400 each, $8,000,000 of which was to be subscribed by individuals, and $2,000,000 by

* See Maclay, Senate Debates, 355; 373, and [John Taylor], Principles and Tendency of Certain Public Measures.
† That is, as we should now say, United States bonds.

the United States. The private subscriptions were payable in four installments, the first at the time of subscription, the second six months later, the third one year later, and the fourth after eighteen months. One quarter of each installment was to be paid in gold or silver, and three-quarters in public stocks; the six per cents at par and the three per cents at fifty. No private subscription was to exceed a thousand shares. The Bank might go into operation when $400,000 had been paid in in gold and silver.

A provision was inserted against Hamilton's plan and judgment, providing for branches. Sooner or later such were organized at Boston, New York, Baltimore, Washington, Norfolk, Charleston, Savannah, and New Orleans. For the fiscal operations of the government, the branches were very useful, and we have no information that any evils were produced by them in the first Bank; but later experience with branches in the United States has been almost uniformly bad. *

Hamilton's Bank, created by this charter, fell in with the notion of a bank which then and long afterwards prevailed in this country. "What is that," said Daniel Webster, "without which any institution is not a bank and with which it is a bank? It is a power to issue promissory notes with a view to their circulation as money. Our ideas of banking have been derived principally from the act constituting the first Bank of the United States, the organization and powers of which were imitated from the Bank of England."† "Banking in America," said Gallatin, "always implies the right and practice of issuing paper money as a substitute for a specie currency."‡ The free banking law of New York, in 1838, first defined a bank without any reference to the function of note issue.

Let it be permitted to introduce at this point what it seems necessary to say in regard to the nature and functions of a bank.

The inconvenience of barter consists in the lack of coincidence between the persons who desire to exchange, with respect to the commodities, amounts, and qualities. Money overcomes this, but it is stiff and angular in its operation. Every step must be taken and no cross cuts are possible. What we call credit, in connection with currency, introduces harmony and rythm. By combination of steps, an accelerated movement, and abbreviated operations, many processes which are necessary in the use of money may be omitted in the use of credit. They are understood, or taken for granted, or are simply recorded until they are cancelled by some subsequent operation. These are the facts which led to the invention of banking, and to the devices by which it is carried on. Various paper instruments have been devised for convenience in these processes. It is a most mischievous mistake to include them in the definition of money. That introduces confusion at the first step and leads to fallacies at every step of deduction. The paper instruments abbreviate the processes and avoid the need of money.

* "The Farmer's Register" of Petersburg, Va., said of the branch bank system, in 1842, that it "alone would serve to render any bank irresponsible and therefore corrupt and dishonest."

† 6 Works, 127. (1839)

‡ 3 Writings, 369.

A bank intervenes between lenders and borrowers and itself performs both operations. It gathers up capital from the lenders and distributes it to borrowers. Then it collects it again from the borrowers and returns it to the lenders. The pulsations of this movement are the life phenomena of a bank. When the pulsations are high, sharp, and well accentuated, the vitality of the bank is high and its efficiency in rendering all the capital in existence as efficient as possible is very great. When the pulsations drag, are broken, and unpronounced, the efficiency of the bank is low. It tends to rest and idleness. The latter case is what is commonly called a lock-up of capital. It is a negation of the sense and activity of the institution. It is only banks whose movement is at the highest pitch of energy which can maintain a bank note circulation under the free control of the banker, and then the circulation will be involved in the business risks attending the discount and deposit operations.

The stockholders are also lenders of their own capital which is amalgamated with what they borrow to lend again. Banks hold an auxiliary or ancillary position in the economic organization. They hold a certain amount of capital free, which, since it is free, is in the form of money, which they bring to bear, now at one point, now at another, in the operations of the industrial system, as it is wanted, especially to bridge over intervals of time. They thus prevent any arrest in the operations; keep up the certainty of the movements of the market, and sustain the rythmical movement by virtue of which it is possible to calculate on the future. They prevent loss and waste, and maintain the efficiency of all parts of the system. They produce nothing at all directly. They are operative, not creative.

It follows that of course it is a question of organization how great the amount and proportion of bank capital should be. It is a part of the total capital which is set off to this auxiliary function. The total organization is more efficient by virtue of it, but it can easily enough be out of proportion either way. The question how great it ought to be in a given case can never be answered except by experiment.

In the supplementary charter of the Bank of England* that institution is given the sole right to "borrow, owe or take up any sum or sums of money on their notes or bills payable at demand," etc. There was no delusion there about the difference between bank notes and money, nor about the fact that what a bank does, when it issues notes, is that it borrows and takes up money and therefore owes it. Any one who issues notes takes a corresponding amount of specie out of the circulation, which is there or would be there, but for this interference. It is proper to approach the matter by conceiving of the community as provided with specie enough to do its business with, according to the ratio of its business to that of the commercial world taken on the total amount of money metal in existence. The note issuers take this away and put their notes in

* 7 Anne c. 7, (1708).

its place; or, they obtain the possession of an equivalent capital which is imported when the displaced metal is sold abroad for real capital. This is the capital which they lend, and the one which produces the interest which they obtain on their notes. As there are four or five steps, and they are all out of sight, at least so far as their connection with the operation of the bank is concerned, there is room for a great number of partial and fallacious interpretations. It comes to be believed that bank notes have a substantive existence, that they, on which interest is obtained, are not like the notes of individuals, on which interest is paid; in short, that they are money, perhaps even capital.

The view of notes as supplanting specie to an exactly equal amount is what is called the "currency principle." According to it the note issuers have a monopoly privilege and strive with each other for shares in a quantum of [illegible] which cannot be surpassed.

A very large class of credit operations, however, consists in what we might call [illegible]nded exchanges. Half the exchange operation is performed but the other half is delayed under a promise or contract of later delivery. A bank steps between. It fulfils the contract at once and does the waiting. If no defalcation occurs, all the givings and takings will be equal, plus a commission for waiting. If, therefore, a bank could intervene in all the cases of suspended exchange which occur in the market, it could keep an account of debit and credit with all the parties. At the end of a certain time all the entries would balance, except for the commission which would fall to the bank as reward for its services, and all the transactions would be closed. If, therefore, the bank could get all the transactions into its hands, and promise to pay everybody, it would need to pay nobody. The whole would be resolved into a book-keeping transaction. If, moreover, all those who had money would carry it to the banker for safe keeping, it is with this money that he would pay in the few cases in which for any reason the use of money was actually called for.

In these last observations lie the magic and mystery of banking. If only the requisite prestige ("credit;" "confidence") can be won to set the institution in operation, it is self-acting, and all that the happy manager has to do is to take toll from its operations. The legitimate way to win the prestige is by offering guarantees of capital and character. Another way is to impose by inflated words and pompous parade upon the credulity of the bystanders. This history will show the difference between the two.

We can go one step further. It would be a great additional advantage if the transactions were not only recorded on the books of the bank, but if also evidence of them was transcribed on portable records, which could be shown and transferred by the parties in the market as their interests in further transactions might render desirable. The bank therefore "issues" paper evidences of the existing contracts which may take any convenient form. Bank notes are one form. Their great convenience is that they are entirely impersonal, and betray nothing of the mode or occasion of the

contract by which their possessor obtained them from the bank, while they enable him to divide his credit as he sees fit and to buy what he wants without further guarantee. Since all the transactions will cancel within a brief period, all the paper evidences will return to the bank within that period. It will then be found that the bank has only "furnished a medium" for all the transactions. We have here a striking illustration of the way in which phrases, in this domain, alter their meaning before the man who uses them is aware of it. To "furnish a medium," on the currency principle, means to provide the community with a currency, in the belief that, but for this provision, it would have none, while in fact the bank takes away specie to give paper. On the banking principle, the bank does, in a legitimate sense, furnish a medium of credit in operations in which money is dispensed with, and a kind of barter of a higher grade is reintroduced, money being used as a standard of reference for the terms of the barter. All the persons in the market may find themselves in a snarl of debts which would hinder them all from moving, but there would be a thread of mutual or consecutive obligations which, if it could be found and drawn out, would absolve them all. The bank operations effect this.

This latter set of facts is the one on which the "banking principle" is based. Both principles are true, but no one has yet succeeded in defining their spheres or their relation to each other. The only line which can be drawn between them is a vague and empirical one; that the small notes are under the currency principle and the large notes under the banking principle. The latter are used in the greater transactions of business; the former in expenditures for consumption. Hence the earnest attempt of the banks, which we shall see in this history, to get the right of emitting small notes, and also the constantly repeated effort of currency reformers to forbid the same. The small notes, under the currency principle, were a permanent loan obtained by the banks from the public, but they also compelled simple and uneducated people to hold a stake in the prosperity of the bank with which they had nothing to do, and on which stake they might lose but never could gain.

It will be seen that the bank projectors of the 17th and 18th centuries mentioned above, Chapter I, had won a vague and imperfect perception of the facts underlying the banking principle. They were trying to enunciate its doctrines and devise an institution to operate upon them.

The arguments in favor of bank note currency in this country have always been made from the standpoint of the banking principle. That currency was always on the currency principle. The banking principle fails entirely when loans are made on accommodation paper, or on land, or on long contracts of any kind. Hence in the history of American banking, the banking principle appears to have been a delusion.

In the paper in which he first laid before Congress the arguments for a Bank and the outline of his plan, Hamilton made a special explanation and defence of two features in it. The first was the provision that shares in the

public debt might be subscribed into the capital. The purpose of this was "to enable the creation of a capital sufficiently large to be the basis of an extensive circulation, and an adequate security for it." He wanted to make a large issue; he thought it impossible to collect a large amount of specie; he had rejected the notion of an issue based on land security; therefore, taking his model from the Bank of England, he based the issue on debt. The best writers on banking, in the third decade of the nineteenth century, had generally reached the conviction that the capital of a bank ought to be invested in some permanent security, and that the operations should be carried on with the notes. Evidently, if a bank should be formed by an association of capitalists who should buy bonds with the capital and carry on the business with the notes; or if they should be already owners of government bonds, which they subscribed as capital, printing notes for use in banking; or if they should lend their capital to the government as a book debt and obtain the franchise of note issue with which to do banking, as the Bank of England did in the first place; or if they should organize, as our national banks now do, it would all amount to the same thing. When the first Bank of the United States was organized, the government did not need to borrow and did not obtain any loan by the subscription of the public stock into the capital. That arrangement never had any proper cause or excuse, and only served to give occasion for some clamor against the Bank, as a piece of jobbery and favoritism to the bondholder.

The other point which Hamilton felt it necessary to apologize for was that the government was to take shares in the Bank. The government possessed no capital and the Treasury had no surplus. What right had it to take shares in the Bank? Hamilton said: "The main design of this is to enlarge the specie fund of the Bank, and to enable it to give a more early extension to its operations." This is unintelligible. The government put bills of exchange on Holland into the Bank in payment for the stock; then it borrowed the bills of exchange out again, and gave its note at five per cent. for the amount. This was called a "simultaneous transaction;" a phrase of ill-omen for an ill-devised operation. The government had simply given a stock note and set the example, which impecunious and bankrupt individuals adopted and repeated during the next fifty years, in hundreds of cases, with the most disastrous consequences. It was bound to pay $200,000 annually on this note, which, as Hamilton said, would "operate as an actual investment of so much specie." He added another reason for this arrangement, which was the real one: that the government would thus share in the profits of the institution. He had, however, well argued against State banking for profit, in the same document.* This arrangement was unnecessary and mischievous. It was right that the government should participate in the profits of the Bank either by a bonus or by taxes, but this device put the government in the wrong on the most fundamental and farreaching difference

* See p. 25.

which can exist in regard to the conception and organization of a bank. If the stockholders of a bank are debtors to it and not creditors of it, it is a swindle. They take something out where they have put nothing in. They are not lending a surplus of their own; they are using an engine by which they can get possession of other people's capital. They print notes which have no security and make the public use them as money. They bear no risk of their own operations, but throw all the risk on others while taking all the gain. The government had no more right to subscribe stock when it possessed nothing, and put nothing in, than an individual would have to do the same thing.

The stock of this Bank and four thousand shares more were subscribed in two hours.* It went into operation December 12, 1791. A very active speculation in the scrip sprang up as soon as the first installment was paid, and it was run up to a premium. This contributed largely to the financial crisis in the winter of 1791-2, "with distress for money unequaled in this country." A story is told that the son of the president of the Massachusetts Bank, and two others, borrowed the funds of the bank to such an extent that it stopped discounting for six or eight weeks, while they went to New York and speculated in government paper. They sold out to Duer. The next day the stocks fell 20 or 30 per cent., and he was ruined. He had high credit and had taken on deposit the savings of small people.† He was put in jail, where he remained five years. Threats were made of lynching him.‡

The belief at the time, and subsequently, was that no more than the specie part of the first installment ever was paid into the Bank in specie.

In managing the relation of banks to each other, Hamilton set some precedents which deserve careful attention on account of the momentous consequences which afterwards followed from them. He naturally had a tender feeling for the Bank of New York, and one reason why he opposed branches for the national bank was that he foresaw a collision of interests. As soon as the charter was passed he wrote to reassure the Bank of New York, saying that he had explicitly directed the Treasurer not to draw upon it without special directions from himself. He declared his intention in the public interest to protect that bank against speculators.§

In November, 1791, he assured the cashier that, although it would be his duty to put the public deposits in the branch, he would precipitate nothing, but would conduct the transfer so as not to embarrass or disturb that institution. In the commercial crisis of 1791-2 he ordered the Bank of New York to buy government bonds, in order to sustain their value and relieve the money market. In fact he followed the course of the panic with such interference as he judged would be useful. In May, 1792, he encouraged

* 1 Gibbs; Adminstration of Washington and Adams, 68.
† 2 Thomas; Reminiscences, 12.
‡ 8 Hamilton's Works, 305; Jones; New York, 589.
§ 8 Hamilton's Works, 239.

the Bank of New York to make loans to manufacturing companies on easy terms, giving the assurance that the bank should suffer no diminution of its pecuniary facilities by so doing.* In March of that year, the Bank of the United States and the Bank of New York had agreed upon a policy of co-operation, but, in 1796, the president of the Bank of the United States having directed the New York branch to demand payment of an amount due from the Bank of New York, the latter was forced to contract, producing alarm. Thereupon Hamilton wrote to his successor, Wolcott, asking him to interfere to produce a mitigation of this order. He thinks that this will be good policy, the weakness of the New York Bank being due to its loans to the government. Wolcott replied: "I will thank you to inform the president of the New York Bank or any other confidential person that they may rest assured of as full and cordial assistance in any pressure of their affairs as shall be in my power. I think, however, that they must principally rely on sales of stock, and in my opinion any sacrifice ought to be preferred to a continuance of temporary expedients." In the same letter he also said: "These institutions have all been mismanaged. I look upon them with terror. They are at present the curse, and I fear they will prove the ruin of the government. Immense operations depend on a trifling capital, fluctuating between the coffers of the different banks." The significant facts in these proceedings are: the interference of the Secretary of the Treasury in the collision of interests between different banks, and the function of mediator or arbitrator which he assumes. His interference in the money market, although noticeable, was not nearly so important.

Wolcott wrote to Hamilton in 1795: "Banks are multiplying like mushrooms. The prices of all our exports are impaired by improper negotiations and unfounded projects, so that no foreign market will indemnify the shippers." And again: "It would astonish you to know how far the capital of this country has been placed in the power of France by speculations to that country and the excessive use of credit during the last season. If we have a good crop and the ardor of speculation can be checked so as to allow a loss which I know to be inevitable to fall gradually upon us, the merchants will struggle through; but if we proceed in our present course until a sudden revulsion takes place, the consequences may be serious." These fears were speedily realized in the financial crisis of 1796, which was connected, no doubt, with the financial crisis in Europe which produced suspension of specie payments by the Bank of England.

Early in 1796, before these troubles came on, John Adams wrote to his wife, in view of his approaching accession to the presidency, that the paper money of the country was the worst evil he saw.† In 1799 he declared: "Public credit [*i. e.*, general mercantile credit, not the credit of the government], can never be steady and really solid without a fixed medium of commerce. That we have not such a medium, you know, has been my opinion

* 8 Hamilton's Works, 247.

† Letters to his wife, 202.

for several years. The fluctuations of our circulating medium have committed greater depredations upon the property of honest men than all the French piracies. To what greater lengths this evil may be carried I know not. The Massachusetts Legislature are authorizing a number of new banks. The cry is the immense advantage to agriculture. Credit cannot be solid when a man is liable to be paid a debt, contracted to any, by one-half the value a year hence."* The rise of a bank mania in Massachusetts, to which he here alludes, produced consequences which we shall soon have to notice.

In 1797, a federal tax was laid on all notes of banks, not exceeding $50, of six mills on a dollar, and lower rates on higher denominations. These taxes might be commuted at one per cent. on dividends. In 1798, an act of Congress made it felony to counterfeit notes of the Bank. In 1807, passing counterfeit notes was included. This latter was made necessary by a decision that the former law was inconsistent with itself, and void, so that it would not support an indictment for knowingly uttering as true a forged paper.†

Under Gallatin's administration of the Treasury we find one case of "arbitration" between banks, and we find proofs of Jefferson's ideas of the proper relations between those institutions and the federal government. In 1802, the Bank of Pennsylvania applied to Gallatin for help. It fell one hundred thousand dollars per week in debt to the Bank of the United States. Upon this Gallatin comments: "They have extended their discounts too far."‡ On an application of the Bank of Baltimore for a share of the federal deposits, Jefferson commented favorably, because he said that the stock of the Bank of the United States was almost all owned by foreigners.§ Jefferson wrote to Gallatin, July 12, 1803: "As to the patronage of the republican bank at Providence, I am decidedly in favor of making all the banks republican by sharing deposits amongst them in proportion to the dispositions they show. If the law now forbids it, we should not permit another session of Congress to pass without amending it."‖ May 3, 1804, Gallatin reported to Jefferson that there was a great drain of dollars out of the country. "There are not at present one hundred thousand dollars in Philadelphia, New York and Boston put together. More than three millions of dollars have been exported in six months from the vaults of the Bank of the United States alone."¶

The banks which were in existence at the end of the century were paying from eight to fifteen per cent. dividends. This stimulated a movement for the creation of more of them.

The first bank mania, with inflation and collapse, after the introduction of convertible note banking, took place in New England, and the rest of the country came to look on that section as sunk in the follies and vagaries of paper money.**

MASSACHUSETTS.—In 1799 a law was passed making it unlawful to join

* 2 Gibbs, 243. † 4 Cranch, 167. ‡ 1 Gallatin's Writings, 80. § Ibid., 102.
‖ Ibid., 129. ¶ Ibid., 191. ** Bollman; Bank Paragraphs, 56.

any association to do banking of any kind unless authorized by law. The penalty was $1,000; the notes were void. All such associations then existing were to dissolve by March, 1800. The period was one of great prosperity in New England, but in 1800 we hear that, "the tide of wealth which had flowed so long has considerably ebbed, and the effect of this change has become visible in everything. Property ha n in price. Real estates especially are not worth so much by 20 p.. ent. as three months ago."*

Although nearly every charter for a bank in Massachusetts required the bank to report annually or semi-annually, "few seem to have paid any attention to these provisions." A general act of 1803 led to systematic reports. A law of 1799 in that State had made it illegal to emit notes for less than $5, but in 1805 they were allowed for $1, $2, and $3. This measure was in obedience to a popular demand and was to be temporary only. Besides the branch of the United States Bank, there were then twenty-one associations for banking in Massachusetts, which were privileged to issue $13 millions.†

In the first years of the century there was a great multiplication of country banks in Massachusetts, Maine, and New Hampshire. Their notes all flowed into Boston and displaced the circulation of the Boston banks. A double currency was thus introduced, one called foreign m ey or current money, and the other Boston money, differing by about c r cent. which was construed as a premium on Boston money. The br. ealt in these currencies, reserving a quarter of one per cent. commission. The country issue then became excessive and the brokers sent it home. Hence it came about that a bank was profitable in proportion to its distance from Boston and the difficulty of access to it. The favorite locations became remote parts of Maine and New Hampshire. In order to equalize and extend the circulation of foreign bank notes the Boston Exchange Office was incorporated in 1804, its capital consisting of such notes and its business being done with them. It was not very successful. The brokers sent home the bills of the nearer banks and the discount on the currency continued to increase as the bills of the more distant banks predominated. Andrew Dexter, having studied the operations of the Exchange Bank, undertook the control and monopoly of the circulating medium of New England. He bought up at a great premium nearly the whole stock of the Exchange Office and of several distant banks in Maine, Berkshire, and Rhode Island. With these funds he bought real estate and built the "enormous pile, since destroyed by fire, known by the name of the Boston Exchange Coffee House." This immobilized his capital. The discount on country bank notes increased and the country banks invented ingenious ways of defeating and delaying payment.

In the autumn of 1808 the Boston merchants raised a fund for the purpose of sending home the country notes for redemption. The discount was from

* Lodge's Cabot, 268.

† Felt, 214.

two to five per cent.* This caused a crisis, and in 1809, "the greater part of the country banks in Massachusetts, Maine, and New Hampshire, having any considerable amount of bills in circulation, stopped payment. Some of them recovered, but a great number proved irredeemably insolvent. It would probably be a moderate estimate to put the losses by the bank failures of that period at $1 million."† In the following year, a law of Massachusetts imposed a penalty of two per cent. per month on any bank which refused or delayed payment of its notes.‡ A Boston firm writing to Matthew Carey, says: "We have heard that a bank mania is raging in your State. If this is true we wish your legislators could see some of the fatal effects resulting from a too free incorporation of banks in this quarter of the Union, and learn wisdom from our misfortune."§

The most famous case which occurred was that of the Farmer's Exchange Bank of Gloucester, Rhode Island. It was incorporated in February, 1804, with a capital of $100,000, payable in gold and silver, in seven installments stretching over three years. The directors paid the first installment in specie, but in a few days borrowed of the bank the same amount without security, and gave their notes without endorsers for the first five installments; on the two last they made no payment whatever. The shares were gradually bought in with the property of the bank. Each director was allowed to take $200 in notes in order to exchange the same for specie, and the bills of other banks, as these could be found in the circulation.

This became one of the favorite devices. A grocer who was interested in a bank, or who was induced by a commission, took a quantity of its notes to exchange. He paid them out at every opportunity in "change" and retained the notes of other banks which he brought back to the bank. This provided that bank with "specie funds" without further trouble or expense. Hence arose also a fraud in the term "specie paying" banks. Two, neither of which had any specie, but each of which held a quantity of the other's notes, became thereby "specie paying;" because each returned its stock of notes of the other as "specie funds," or "cash items." Gouge, Raguet, and other writers of Jackson's time refer to the period before the second war as one in which there had been some sound, honorable, and high principled banking. Investigation does not verify this. Sometimes there was a certain *naïveté* and simplicity about the way of behaving, but these earlier bankers invented nearly all the later abuses, and they set about the exploitation of them with less reserve than their successors. Perhaps they and their contemporaries had not yet learned how mischievous the abuses might become. If so, that is the most which yet can be said for them; for they did not show any greater scrupulosity than their successors. The fact is that what New England did in the first decade of the century is what the Middle States did

* 11 Proc. Mass. Hist. Soc. 307.
† N. Appleton; Banking System of Massachusetts, 13.
‡ The validity of this provision was disputed by the banks but sustained in 8 Mass. 444 (1812).
§ Carey's Letters to Seybert, 68.

in the second, and the Southwest in the fourth, and the Ohio States in the sixth.

In 1808 Andrew Dexter bought up all the outstanding shares of the Farmers' Exchange Bank, giving for them his own notes or notes which were the property of the bank. He then put in a new set of directors. During January, 1809, he was writing constant letters from Boston to urge the cashier to sign notes as rapidly as possible and send them to him in great quantities, with complete secrecy. He also gave orders that notes should be redeemed only by drafts on Boston, or with vexatious delays. When at last the attention of the Legislature was drawn to the matter, Dexter tried to persuade the cashier to pay no heed to its summons. The Committee of Investigation found in the bank $86.48 in specie. The books were in such confusion that the actual outstanding circulation could not be definitely ascertained, but it was thought to be $580,000.* "It is impossible for us to picture the ruin and distress that followed, the effects of which are still remaining. It is said, and we presume correctly, that in one county of this State there were $100,000 of the bills of the Farmers' Exchange Bank in circulation at the time it failed, and probably in the State there were $400,000 or $500,000, all of which, after being bartered at various discounts, became a total loss to the last holders, which, in most instances, were the poorer and less informed parts of the community. There is no doubt that thousands of farmers will be ruined, and leave their families in poverty, in consequence of the facility with which they obtained money at the banks by mortgaging their estates."†

It was in the name of the Boston Exchange Office that Dexter first approached the Farmers' Exchange Bank. He had seen how the notes of one bank could be played off against those of another, especially if they were at a distance from each other. The second bank with which he was operating was the Berkshire Bank at Pittsfield. If a bank issued its own notes in very great quantities, they would become very abundant in the country around it. This would excite attention, and they would be brought in for redemption; but if the Berkshire Bank issued notes of a Rhode Island bank, and *vice versa*, and if they were widely scattered, these dangers could be averted. The Boston Exchange Office in fact accomplished this on a large scale for its constituents. It is also noticeable that amongst the notes which Dexter sent to the Farmers' Exchange Bank, in order to strengthen it, were notes of the Marietta Bank, Ohio. He thought them quite available, because there was such a demand for remittance to Ohio. We learn from other facts that the circulation of bank notes from one end of the Union to the other was, at that time, wide and easy, far beyond what one would have believed possible.‡

* Report of the Committee on the Farmers' Exchange Bank.

† Boston firm to Carey.

‡ See page 56. Dexter went to Alabama, where he founded the town of Montgomery, and died in poverty in 1838. (1 Raguet's Register, 337.)

In 1814 the New England Bank adopted the plan of receiving the bills of all the banks in New England at a discount varying according to distance, but in no case exceeding one per cent., and on condition of a sufficient permanent deposit being maintained, they were returned to the banks at the price at which they were bought. The bills of banks which did not keep a deposit were sent home for payment. The other banks competed with the New England Bank for these deposits, and thus diminished the discount.

In the story of the early Massachusetts banks we see the first development of the antagonism between commercial banking and agricultural banking. In the larger towns of that State city industries were beginning. They could support banks of discount and deposit with short paper. Persons who were fitting out ships or tilling land could not use ninety day paper. Loans to farmers always had the character of accommodation paper with renewals, although a mortgage would give ultimate security. The Bank Commissioners of Connecticut, in 1841, expressed the opinion that "the practice of some banks to confine their discounts exclusively to business paper or paper that is subject to no renewal, is a great innovation, and denies to a worthy class of borrowers those facilities and advantages to which they are entitled in common with those of more various and extended business." True bank note circulation could not be maintained by the country banks, but if they could get a distant circulation they could live on an abuse of issue-banking. The jealousy of the rural population in respect to banks led them to insist on inserting in bank charters a provision that a certain fraction of the capital should be loaned on mortgage of land. We shall presently see the antagonism, which here arose between parts of the same State, marking the relations of parts of the Union.

We observe that a bank was conceived of primarily as a means of creating wealth. Every one wanted a share in its beneficent operation. If the Legislature created it, all the people ought to participate in its blessings. To do justice to this notion we must not forget that the banks then existing had been organized very generally on stock notes, and if they succeeded, were mines of wealth to their owners. A generation later, as we shall see below, people came to say that banks were a curse to all agricultural interests and persons. We shall see that, in the history of banks in this country it has been a question of paramount importance: What is the utility of banks to farmers and how is it to be realized? From the standpoint of commercial banking with ninety day paper, a loan to a farmer for a year with a stipulated renewal was bad banking, but, on the other hand, such a loan could never answer the purpose of a farmer. Repayment within a year is, for him, vexatious and impracticable. He needs loans for years or for an unlimited period. Never until modern institutions of credit suited to the necessities of the case grew up did this antagonism of facts, interests, and institutions pass away.

The incident of the Farmers' Exchange Bank led the Legislature of Rhode Island to pass a law, fining any officer of a bank $50 for every check, note,

or bill signed by him, for a less sum than $50, payable at any place out of the State. A fine of $5 was also imposed on any one who should pass a note for less than $5 issued by a bank out of the State.

The banks of Rhode Island had a peculiar "bank remedy" or "bank process" against delinquent debtors, according to which execution issued directly without previous process and finding of judgment. The bank process was abolished in 1836, on the recommendation of a committee of the Legislature, who found that it was liable to abuse, and that the remedies provided for other people were also sufficient for the banks.

In VERMONT, in 1803, two bank acts were vetoed, on the ground that banks demoralize the people by gambling, concentrate wealth in the hands of the few, and are useless to the many since they give credit only to the rich. Here now we meet with the first great State paper money machine. It was first proposed in 1805, and rejected; but November 10, 1806, it was adopted. It was to be called the Vermont State Bank; to have two branches; to be the property of the State; to be controlled by the State, and all the profits to go to the State. The directors were to be chosen by the Legislature, six for each branch. Each branch had a great degree of independent life and action. The directors of each branch were to borrow specie from time to time for that branch and on its credit, not issuing more notes than the actual specie on hand until that amounted to $25,000. After that they might put in circulation three times the amount of specie, provided that the last should never exceed $300,000. Five hundred dollars were appropriated to procure plates and paper, and the Legislature might appropriate money in the Treasury to fill the coffers of the bank. The directors were authorized to purchase, hold and transfer real or personal property, as it might be necessary to protect the interests of the State in the proposed operations.* The next year the directors reported that, on September 30, 1807, there was due the bank, $139,757. The notes were of the denomination of fifty cents, seventy-five cents, one dollar, a dollar and a quarter, a dollar and a half, a dollar and seventy-five cents, two dollars, and three dollars. These had been printed and issued on mortgage loans. The institution was reported prosperous and successful, and in order that the State might win the expected profits it made a monopoly of its bank, just like the other banks, by enacting that no notes issued by any bank out of the State should be brought into the State to be loaned there.

The next year the trouble begins. It is charged that noteholders cannot get notes redeemed without paying a discount of one per cent. or two per cent. or taking a draft on a distant bank, payable after thirty or sixty days. The defense was that this rule was made only for defense against speculators or persons unfriendly to the bank, and it seems to have been held good. These, however, were the familiar tricks of banks formed by selfish private capitalists. The notes in circulation were now over half a million; the State was

* Session Laws, 1806, c. 110.

creditor of the bank for about $80,000, and the latter had cash assets, $187,000. In 1809, the banking crisis having taken place in the adjacent States, the Governor declared that although he had not favored the State Bank originally, he thought that the people, but for it, would now have been in possession of the worthless paper of the broken banks. The House replied that they valued the institution as a source of revenue; considered "the final redemption of the bills already guaranteed by the honor and wealth of the State," and that they were ready to do anything to remove real or imaginary obstacles to the prosperity of the institution. The accounts of the bank now showed a net gain to the State of $22,412. A committee of the House thought that all the loans were good, each note having two or more endorsers; but they are obliged to add: "Although causes unforeseen to the president and directors have produced a temporary suspension of punctual payment at the bank, yet it does not appear that this state of things will long continue." It is also very significant that two or three laws were passed at the same session to enforce the collection of debts due the bank. A summary process of execution, like the Rhode Island "bank process,"* was provided. The next year it is enacted that the directors shall give a list of all who are in arrears to the bank, annually to the Legislature; and a similar list of delinquents is to be published in the newspapers. In 1811 the legislative committee hoped that if the bills were called in, as they had been during the last year, very few of them would, in another year, remain in circulation. They recommended the appointment of a committee with power to make a full examination of the bank during the recess. No notes were to be put in circulation until the specie equalled half the debts; and the loans were to be called in as rapidly as possible. A year later the report showed the bank in possession of lands taken on execution to the amount of $11,062; the loans outstanding were $95,418, of which half were in suit. The Bank held notes of broken banks, $3,052; the notes in circulation were $78,431; a balance unaccounted for was $13,680.

In 1812, laws were passed to wind up the institution. The State Treasurer was to give to noteholders treasury notes payable, half in one year, and half in two years, with interest at six per cent. In 1822, the State Bank owned lands taken on execution to the value of $21,685. The State redeemed all the outstanding obligations by receiving them for taxes, and in 1825, distributed the avails of the property which it had received from the bank amongst the towns for schools. The affairs of the bank were settled up in 1845. The loss by it never could be exactly ascertained. A tax of one cent per acre was levied in 1812 in order to retire the notes. It brought in $100,000 of them. There were in the State Treasury $130,000 received otherwise. The assets of the bank produced about $30,000, leaving the loss about $200,000.† One Durkee of Boston, who demanded specie of

* See p. 40.

† G. B. Reed; Banking in Vermont.

this bank, was arrested, in 1808, and an indictment drawn against him; but the bill was not found. *

CONNECTICUT.—The bonds of the United States owned by the State having been paid, in 1803, the Legislature voted to put the amount in banks which would receive it as stock-deposit; that is; it was to be deposited, but to get the rate of dividend instead of the rate of interest, be withdrawable, but not transferable as stock.

The shareholders of the Hartford Bank voted, in 1806, that they would receive subscriptions from religious societies or school corporations on similar terms to those here provided for the State. The following year the Legislature authorized an increase of the capital stock of this bank to one million dollars, with the provision that "the bank should be open at all times to subscriptions of shares from the funds of schools, ecclesiastical societies, or other incorporations for charitable purposes in the State, without any advance thereon, and with the right, on the part of the privileged associations, to withdraw their moneys on giving six months' notice. Whenever the holdings of any favored society reached $50,000, the full capital of one million dollars having been otherwise filled, it was entitled at the annual meetings to the choice of a director. These shares were not transferable." In 1809 the bank petitioned the Legislature to relieve it from the necessity of receiving these subscriptions. In 1816 it had $212,800 of such non-transferable shares.† This arrangement became customary in Connecticut, and was introduced into nearly all the bank charters which were granted before the civil war. The Connecticut charters, also, as a rule, did not run for a prescribed length of time, but they contained a clause allowing the Legislature to amend or repeal them.

NEW YORK.—In 1799 the Manhattan Water Company was chartered in New York City with a capital of two million dollars, and with power to use any part of the capital not required for water-works in any way "not inconsistent with the laws and Constitution of the United States or of the State of New York." Aaron Burr is mentioned as the inventor and chief promoter of this charter. When the bill came before the Council of Revision, the Chief Justice objected that, under the clause quoted, the corporation might engage in trade. No one seems to have noticed that the corporation might engage in banking, which was the real intention. In excuse of this subterfuge it was alleged that no charter for a republican bank could then have been obtained. The charter was perpetual, but in 1808 the company was allowed to sell or lease its water-works to the city, and to use all its capital for banking. The charter was to expire thirty years from the date of such sale or lease. The State might subscribe for one thousand shares of the stock, and the Recorder of the City of New York was made a director *ex officio*.‡ The right of this company to do a banking business was tried and affirmed by the Supreme Court of the State.§

* Treasury Report, January 3, 1838, p. 111.
† Woodward: Hartford Bank, 86.
‡ Treasury Report, March 3, 1841.
§ 9 Wendell, 351.

The next measure of this kind was the charter of the New York State Bank at Albany, which was petitioned for on the express ground that the bank already existing at Albany was federalist. This republican bank petitioned for an exclusive grant of the salt springs for sixty years. This request was not granted, but Hammond* gives a description of the lobbying devices by which the charter was carried. "The company, before their petition was presented, had agreed on a dividend of stock between themselves, and reserved the surplus to be distributed among the members of the Legislature. It appears from the affidavit of Luther Rich, a member from the county of Otsego, and several other affidavits, that assurances were given that those members who voted for the bill should have stock, with a further assurance that the stock would be above par." A modified statement in regard to this, intended to excuse it, is to the effect "that the applicants founded their claim to a charter upon the ground that it should be a republican bank, and with a view, as was pretended, to insure it that character, they agreed that each republican member should be entitled to subscribe for a given number of shares, and that this privilege was secured to every republican member, whether he voted for or against the bill."†

In 1804, two unincorporated partnerships doing a banking business, one in New York City and the other in Albany, tried to get charters, but the Legislature passed instead a restraining law forbidding all unincorporated companies from banking, and compelling these companies to go into liquidation. As Hammond says, this law established a monopoly of the issue of notes in the existing banks. In the following year the Merchants' Bank, one of the above-mentioned companies, renewed their application for a charter. They were opposed by the persons interested in the banks already chartered, some of whom, as DeWitt Clinton, John Taylor, and Judge Spencer, were among the most powerful politicians in the State. One of the strongest grounds of opposition which they openly alleged was that "the granting of the application would be injurious to the republican party." The petitioners were denounced as federalists and tories. They thereupon had recourse to lobbying and bribery. The whole affair constituted a great political scandal.

The charter of the Bank of America, in 1812, was an occasion of bribery and corruption. John Martin, a preacher and sub-agent of the bank, was convicted of attempting to bribe members of the Legislature, and was sentenced to confinement in the State prison. There was a Legislative investigation and a great political scandal.‡ In April, 1813, certain bank charters were extended until June, 1832. Among them was that of the Bank of New York. Certain colleges were allowed to subscribe a specified amount of stock in these banks, at the original price. The trustees of Hamilton College sold to the Bank of New York their right of subscription at $126 per share.

* 1 History of Political Parties in New York, 329. † 1 Hammond, 329. ‡ 1 Hammond, 335.

PENNSYLVANIA.—The Bank of Pennsylvania was incorporated March 30, 1793, for twenty years. Its charter was renewed in 1810 for twenty years longer. At one time it had four branches, but they were not all maintained. In 1796, the State obtained from this bank, as dividends on the shares owned by it, about $100,000 per annum, which paid nearly all the State expenses.

In 1796, a defalcation was discovered in this bank, amounting to $111,000, and overdrafts for $100,000 more. This was a republican bank, some of the leading republican politicians of Pennsylvania being in control of it. As all banks in this period had a political character, their doings and fortunes were discussed in the partisan newspapers just as the personal qualifications of candidates were discussed.* In the financial distress of 1796, Madison thought that the banks were powerful to persuade people to sign petitions in favor of Jay's treaty, on account of the general dependence on bank accommodation.†

The Philadelphia Bank was chartered March 5, 1804, having previously been in operation as a partnership. Its first period was ten years; renewed in 1806 for ten more; in 1809 it was authorized to institute branches, of which it established four, but not all were maintained. At this time the farmers had come to believe that the prosperity of cities was largely due to banks. In 1810, the Farmers' Bank was established in the county of Lancaster, and others in other parts of the State. March 19, 1810, unincorporated associations were forbidden to issue notes; but they continued to do so, and circulating notes were emitted by bridge and turnpike companies. The Farmers' Bank of Lancaster made such large issues that it paid dividends of more than 12 per cent. per annum. This greatly stimulated the desire for banks.

In 1810, the State of Pennsylvania owned $1 million in the Bank of Pennsylvania, $523,300 in the Bank of Philadelphia, and $75,000 in the Farmers' Bank, which had just been chartered. It also had shares in the Mechanics' Bank. In 1810 it subscribed $396,920 to the Bank of Pennsylvania, whose capital was then raised to $2.5 millions.‡ Perhaps the most influential publication on financial matters during this period was Blodgett's Economica, 1805. It favored an increase in banks, the use of public securities as money, land security for bank notes, etc.

The Farmers' Bank of DELAWARE was chartered February 3, 1807, with a capital of $500,000, of which the State took one-fifth. It was to be the State bank, but was free from fantastic features.

VIRGINIA.—The Bank of Virginia was incorporated January 30, 1804, to last until 1818. It was to have $1.5 millions capital, of which the State subscribed $300,000, borrowing that amount from the bank at four per cent. The lowest denomination of notes was $5. In the following year it was made unlawful to pass a note of an unchartered bank. The next bank chartered by

* See Calendar, American Annual Register for 1796, and, The Prospect Before Us.
† Madison to Jefferson, April 23, 1796.
‡ Carey; Letters to Seybert, 28.

that State was the Farmers' Bank of Virginia, incorporated February 13, 1812, with a capital of $2 millions. Of the shares 3,334 were reserved for the State, if it should choose to take them. It was to last until 1827 and have four branches. It might not own more than two and two-third times its capital, nor owe more than three times its capital besides deposits, unless authorized by the State. By a subsequent law it was allowed for two years to make loans to the United States, in view of the impending war. It was forbidden to buy any stock but its own.

The banking history of NORTH CAROLINA begins with the Mutual Fire Insurance Company, incorporated in 1803, which appears to have issued notes, although this is not certain. In the following year the Newbern Marine Insurance Company was incorporated, of which the same may be said. The president and directors were authorized to "direct the issuing of policies, notes, and all and every instrument in writing that may be necessary and proper in the transaction of the affairs of the company." In the same act a bank was established at Newbern, with a capital of $200,000, to last until 1820; $50,000 to be raised at once; the debts, exclusive of deposits, never to exceed three times the capital. In the earlier part of the century this ratio was the usual one in the southern States. The State reserved the right to subscribe $25,000. If it did so, the note issue might be increased in proportion. In the same year the Bank of Cape Fear was established at Wilmington, as was said, on account of increasing population and commerce, to last until 1820; capital, $250,000. The State might subscribe, within three years, $25,000. This bank might become a branch of the Bank of the State, if one should be founded.

A legislative Committee of Investigation, in 1828-9, reported: "It is in evidence to the undersigned that soon after they [these two banks] went into operation, they contrived to get possession of nearly all the paper money which had been issued on the faith of the State, which, being at the time a legal tender, enabled them to evade demands for specie, which they did by thrusting this ragged paper at those who presented their notes for specie." In 1814, the two banks were authorized to increase their capital to $800,000 each; which increase, this same committee said, was taken in the stock notes of favored individuals.*

The State Bank of North Carolina was first incorporated in 1805. It was repealed in the following year, and is therefore important only as showing the trend of ideas at the time. The most peculiar provision was that the bank might open an account with any farmer, mechanic or manufacturer, for any sum between $100 and $1,000, on which he might draw or deposit not less than $50 at a time, paying interest on debit balances and receiving interest on credit balances. He must give security of land or other property satisfactory to the bank, and not over one-fifth of the capital of any bank or branch might be in these accounts at one time.

* Raguet; Currency and Banking, 112.

In 1807 the Treasurer was authorized to subscribe for the shares which had been reserved for the State in the Cape Fear and Newbern Banks, paying in three annual installments, with four per cent. interest. After paying the last installment, he might borrow the same amount from each bank "until the dividends received be sufficient to pay off the sum borrowed." A law of 1809 seems to show dissatisfaction with the Banks of Newbern and Cape Fear. As they were forbidden to issue notes under $1, it must be inferred that they had done so. The Governor was ordered to appoint State directors, according to the power reserved in the charters, in virtue of the State subscription. Annual reports were to be made of the outstanding circulation. If notes were issued beyond the lawful limit, the charters were to be forfeited. The banks were not to issue notes on account of their deposits beyond the minimum amount of them in the previous year. In the same year £5 penalty was imposed for passing any note under 10 shillings, because, as the preamble states, "the circulation of promisory notes or due-bills, by individuals, for small sums, has become so general in some parts of the State as to be very inconvenient and injurious to travellers and others."

At the following session, it is ordered that the banks be proceeded against for the tax laid on them in 1809, as delinquent sheriffs are proceeded against, and the State directors are ordered to examine the cash in the vaults of the banks as often as they think proper, and to report to the Legislature annually, whether the published statements are correct.

In 1810 it was enacted that a bank should be established "in the State." It was to have $1.6 millions capital, of which the State might subscribe $250,000; three-fourths of the subscriptions were to be in gold and silver, and one-fourth in the paper currency emitted by the State in 1783 and 1785, which was not afterwards to be a tender either to or from the bank. All judgments for and against the bank were to be in gold and silver. The State dividends were to go to redeem the paper currency. The State was to pay its subscriptions in United States stocks or in specie. There were to be six branches; it was to last until 1830, and no other bank was to be chartered during that time. It seemed to be hoped that it would absorb the two existing banks, for their stockholders were allowed a priority in subscribing to the stock of the Bank of the State. They did not avail themselves of it. The State Bank was to issue no notes under $1.

The subscriptions to this bank disappointed expectations, and the paper currency could not be retired. Accordingly at the next session greater inducements were offered; four per cent. might be reserved from the dividends due to the State, and the charter, with monopoly, was extended to 1835, if the bank would redeem the State paper by 1817, giving either its own notes or specie, at the option of the holder, and at the rate of $1 for 10 shillings. When this was accomplished the Governor was to make proclamation that the State paper was no longer a tender, and it was to cease to be such except to the bank; but if the funds did not prove sufficient to redeem it all before the bank expired, it was to be once more a good tender. Dividends

accruing to the State were to be appropriated to pay the notes of the State held by the bank. In the loose and inconsistent wording of the clauses about this State paper money, we can see the play of opposing factions in the Legislature, which interjected amendments to preserve the State paper currency, or guard it against what was considered invidious action. This bank was not to be liable to taxation.

The attempt to retire the State paper proved vain, and similar stipulations were repeated three years later.*

SOUTH CAROLINA.—By a law of December 21, 1799, it was peremptorily forbidden, under a fine of $10,000, to issue and re-issue bank notes founded on the paper currency of the State.

The Bank of South Carolina and the State Bank were chartered December 19, 1801, both being already in existence as partnership associations. They were chartered until 1823, the capital being undefined, the former being charged to pay, as a preliminary, into the State Treasury $15,000. The State might subscribe $300,000 to the State Bank in six per cent. bonds, which were not to be sold by the bank unless in the last necessity, upon the consent of the Comptroller; and the bank was not to have the interest on these bonds. Three directors were to be appointed by the Legislature. The State Bank refused to accept this charter, and a new one was enacted December 18, 1802, the capital to be $800,000, of which the State might subscribe $300,000 in certificates of indebtedness, at six per cent., saleable, and the interest paid quarterly; the bank to be free of taxes; to have the public deposits; to issue no note under $5 (which is enacted as to all banks), and to discount the Comptroller's warrants at seven per cent. for not more than $140,000, in order to retire the State paper money.

The State Bank at Charleston and the Manhattan at New York wanted to make an arrangement to redeem each other's post notes, but the Legislature of South Carolina forbade the former bank to give credit to any bank outside of the State. The terms were so wide that the prohibition prevented the State Bank from becoming a federal deposit bank.†

The Union Bank of South Carolina was chartered December 20, 1810, but seems to have been previously in existence. Langdon Cheves was an incorporator. The capital is not fixed. Limit of property, $3 millions; duration, twenty-one years; bonus, $20,000; notes receivable by the State. On the same day the Planters' and Mechanics' Bank was chartered, with branches, until 1832; capital $1 million; limit of property, $3 millions; not to be taxed; to give the State 800 shares, at $25 each, which was the par amount. By an amendment, the following year, this bank and the Union Bank were allowed to deal in exchange. E. S. Thomas tells us in his "Reminiscences," that he was piqued because the State Bank threw out his notes, in 1810, and so he got up the Planters' and Mechanics' Bank. He subscribed as attorney for a great number of shares and sold them for double; that is, no doubt, on the first installment paid.

* See page 85.

† 2 Folio Finance, 519.

The first bank founded in GEORGIA was the Planters' Bank, December 5, 1807, with a capital of $1 million, increasable to $3 millions, but to begin when $300,000 were paid in in gold and silver. The president and directors were to have no favors over others in respect to loans. December 19, 1810, this charter was repealed. Apparently no action ever was taken under it, because the required amount of capital was never subscribed. A new charter was now enacted, the capital being $1 million, and 1,000 shares being reserved for the State until January 1, 1812. It was to last until 1840. At the following session, however, another law shows that subscriptions had not been obtained; for the old subscribers were all released, and it was provided that it might begin when $30,000 were paid in in specie. December 6, 1810, the Bank of Augusta, which already existed as a free association, was chartered until 1830. The capital was $300,000, increasable to $600,000; the State might take $50,000 of this at any time before January 1, 1812, and if the capital was increased the State reserved the right to take one-sixth of the increase. A year later the Governor was directed to subscribe the amount reserved.

We may now gather together such meagre information as can be obtained about the history of the first Bank of the United States.

In 1804, it was authorized "to establish offices of discount and deposit in any part of the territories or dependencies of the United States." This is the act under which the branch at New Orleans was established. It was signed by Jefferson under the persuasion of Gallatin, and was afterwards held by the friends of the Bank to be a waiver, by Jefferson and his adherents, of their scruples about the constitutionality of the Bank.

In 1805, Georgia passed a law to tax the Bank. It refused to pay. The State officers entered the Bank and seized two boxes of silver worth $2,004. The bank brought an action for trespass in the Circuit Court of the United States for the District of Georgia, where the decision was for the defendant on a demurrer. On appeal to the Supreme Court of the United States the case became involved in technicalities.* Georgia desisted from the attempt to tax the Bank until it should be decided whether it was to be rechartered.

The charter of the Bank was to expire March 4, 1811. As this time approached, a loud and somewhat angry discussion was raised over the question of renewing it. When the question of founding the New Orleans branch was pending, Gallatin was led to make a statement of the advantages of the Bank to the Federal Treasury. They were: safe deposit of the public money; prompt transmission of the same from one end of the Union to the other; and facility in the collection of the revenue.† March 2, 1809, he made an elaborate and very favorable report on the Bank, in which he endeavored to meet the current objections. He was very much afraid of the financial effects of the multiplication of small banks. He gave a statement of the operations of the Bank in round numbers, which was intended to

* 5 Cranch, 61, (1809).

† 1 Gallatin's Writings, 171.

show what was the general magnitude and proportion of the different factors in its operations. We possess but one other statement of the affairs of this Bank. According to its charter, it was bound to report to the Secretary of the Treasury, at his demand, not oftener than weekly. Upon the question, how often it did report, history throws no light whatever. The fact that a law imposed some duty on a bank, at that period, raises but a limited presumption that it ever did it. In a communication of January 24, 1811, Gallatin said that the charter of the Bank called only for "general statements" of the leading facts in regard to its condition; that only such had been required, and only such had been furnished. In view of the prevalent notions about the mystery and secrecy proper to a bank, we may well believe that this bank was very reluctant to make statements, and we may doubt if the Secretary called for them very often. If any were made, who should have been in a position to use them, if not the man who had been Secretary of the Treasury for ten years? If they ever existed they have been burned; so that the question whether they ever existed or not is open to easy and unprofitable speculation. According to the detailed report of January, 1811, the bank held private deposits, $6 millions; public deposits, $2 millions; bank deposits, $600,000. It had $5 millions circulation; $14.5 millions discounts; had lent the United States $2.7 millions; was a creditor of other banks for $900,000 and held their notes for $400,000. It had $5 millions in specie.* In looking to the future, Gallatin regarded the Bank as essential to the fiscal affairs of the federal government, especially if there should be a war. He proposed that, in renewing the charter, the Bank should be called on to pay interest on the public deposits; that it should have some government directors; that its capital should be made $30 millions; and that the States should be allowed to subscribe a part of the capital and to appoint some of the directors.†

The 5,000 shares in the Bank owned by the United States were sold as follows: 2,493 shares, in 1796-7, at 125; 287 shares, in 1797, at 120; 2,220 shares, in 1802, at 145. As the stock was paid for in ten annual installments, some of this was sold before it had been paid for. The total premium obtained was $671,860; the amount of dividends received by the United States, while it held the stock, was $1,101,720.‡ The sale, in 1802, was to Sir Francis Baring, who re-sold in England at 150. Carey argued that it would disgrace American credit not to re-charter the bank after selling the stock at this rate. He also argued that the Bank of the United States was no longer a "national" bank, since these government shares had been sold, and therefore that all the allegations of danger on account of the connection between the government and the Bank had now fallen to the ground. He attributed the stringency in the money market, in 1810, which the "Aurora" and other opponents of the Bank charged to its wilful and malicious action, to the multiplication of branch banks in Pennsylvania, and the necessity

* Seybert; Statistics, 526. † 2 Folio Finance, 351. ‡ Seybert, 519.

imposed on the mother banks by an act of the Legislature to receive the branch notes in payments. He complained very much that he could not obtain the information which was necessary for the defense of the Bank, and of "the obligation of secrecy in banking transactions which precludes a writer who undertakes the defense of such an institution from the use of many of the most important documents on which the whole of his reasoning may depend." The Bank had not taken the notes of its branches in payment from its customers, which was a ground of complaint the justice of which Carey conceded. His chief argument for renewal was the terrible calamity that would occur to the business of the country if the bank should wind up, and he quoted Atwater of New Haven, with horror, because Atwater thought that it would be a good thing to have all banks, bank paper, and bank charters burned up together.*

Bollmann† held that the winding up of the Bank would force the winding up of all the other banks, and hence would retire $55 millions of circulation. The "Aurora" was the organ of the opposition party. November 8, 1810, it offered twenty reasons why the Bank should not be re-chartered. The one which was reiterated the most frequently and in the greatest number of different forms was that it was foreign, or was owned by foreigners. In fact about two-thirds of the stock was owned abroad. The ninth reason was "because its influence has been exercised in our local elections," and because it was a political engine to favor "such as would abandon the interests of popular representative government." There were declared to be great abuses in the Bank, above all at Charleston and New Orleans, and its patronage was declared to be hostile to American interests. The most original reason for winding it up, however, was in order to find out whether it had been useful or not.

In regard to the political influence, we find a specification, in the same paper, January 9, 1811, in which it is stated that the cashier of the Charleston branch went "upon the election ground," and threatened curtailment of discounts as a punishment for voting for those who were "hostile to English domination." "From that day [of its origin] to this, the whole force of this all-corrupting Bank has been directed with an uniformity unsurpassed to the service and use of England, to the injury and abuse of this nation." The bank was intended to create a "money interest, which was to supersede and occupy the place of those interests which were solemnly promulgated in the Declaration of Independence." The "Aurora" had a story that the branch at New York had endeavored to punish Astor, for not being a sufficiently good federalist, by refusing him discounts, and that the clique surrounding it had given information to the English cruisers so that they might catch his ships. The arguments of these newspaper disputants were full of emphatic denunciation, but we can glean from them nothing more in regard to the history. The "Aurora" often hinted that it had a project of its own

* Carey: Letters to Seybert. † Paragraphs on Banks.

in reserve, which would be far better, and it denounced Gallatin as a traitor for defending the Bank. Its ideas were those which had already begun to find expression in the great banks of the States. "To any banking institution not founded on the landed security of the United States, we are hostile."

Atwater's pamphlet* echoes the same notions and prejudices, of which the strongest is the hostility to foreigners. "Think of the locusts of Egypt. These were to the people precisely what banks are to our farmers." The Bank is aristocratic and federal. "One bank like that of the United States will destroy the industrious habits of a thousand families annually." Niles, in his reminiscences of political history, says that the federalists regarded the first Bank of the United States as their "sheet-anchor," and the democrats "deprecated it as an oppression, unconstitutional in its organization, and pernicious in its operation."† "The time has been that a man, who did not wear a black cockade might as well have offered up his prayers to the father of mischief for a benefit (as some savages do) as have asked an accommodation of the Bank of the United States."‡

The Legislature of Virginia, at the session of 1810-11, instructed their Senators and requested their Representatives to vote against the renewal, because the use of the power to pass an act of incorporation by Congress was unconstitutional and "an encroachment on the sovereignty of the States." The Pennnsylvania House of Representatives adopted resolutions against the Bank, December 13, 1810, which were based on the doctrine of the Virginia and Kentucky resolutions of 1798. In the debate on these resolutions, Nicholas Biddle took a most prominent part. All these expressions taken together show the social and political animosities which were awakened and developed in connection with this institution; but we have very little means of learning what truth there was in the assertions. In a speech in the House of Representatives, in January, 1834, Horace Binney, who had, as a young man, been a director of the Bank, in the last years of its existence, spoke with great feeling and eloquence in defense of the men who had at that time been directors, and against the old imputations against the first Bank, which had been renewed in the war against the second: "The directors of the parent Bank were a body of as honorable men, as impartial, and as faithful to their trust, as any men that ever lived. There was not a politician at their board, nor a man who gave himself up to anything but the performance of duty to his trust."

The debate in Congress on the renewal of the charter added very little to these arguments. The petition of the Bank for a renewal was presented March 26, 1808, but no action was taken upon it. December 4, 1809, Nicholas of Va. moved that "provision be made by law for a general national establishment of banks throughout the United States, and that the profits arising from the same, together with such surplusses of revenue as may accrue, be appropriated for the general welfare, in the construction of public roads and canals, and

* Considerations on the Dissolution of the United States Bank. † 24 Niles, 291. ‡ 17 Niles, 67.

the establishment of seminaries for education throughout the United States." This outcropping of the notions which entered into all the big banks of the States schemes is worthy of notice. The plan was to have the federal state carry out the same operation with the States, as the State, in all those schemes, did with the counties, and the proposition came from the core of the State rights group who were fighting the Bank. The very men and the very school of opinion who were hostile to banks altogether on the federal arena, invented and established the big State paper money machines.

Love of Virginia reported, April 2, 1810, an elaborate plan of a national bank, to have its seat at Washington, and branches in such States as consented. The States were to subscribe shares which were allotted to them. It was something between the proposed Bank of the United States and the big banks of the States. April 7th, a bill was introduced to continue for twenty years the existing Bank of the United States with the modifications which Gallatin had suggested. A bonus of $1.25 millions was to be paid within the year; the Bank was to loan the government not more than $5,000,000, at not more than six per cent., and it was to pay three per cent. on the minimum annual balance of the public deposits in excess of $3 millions. April 13th, this bill was debated in Committee of the Whole, but the House never gave the Committee of the Whole permission to debate it further.

Although the Bank had presented the subject in 1808, it never was really considered in Congress until January, 1811, three months before the charter was to expire. Perhaps the most representative speech against the Bank was that of Desha, of Kentucky. He said that the question was: "Whether we will foster a viper in the bosom of our country that will spread its deadly venom over the land, and finally affect the vitals of your republican institutions; or whether we will, as it is our duty, apply the proper antidote by a refusal to renew the charter, thereby checking the cankering poison, the importation and dissemination of foreign influence, that has already brought our government to the brink of ruin." He had no doubt that George III was a stockholder in the Bank. He viewed all banks as hostile to the principles of our government. Commerce was but little better, yet he was not hostile to it, but wanted it kept "within the pale of reason." The large foreign capital in this Bank, he said, gave the tone to elections in New York until Burr checked it with the Manhattan Company. He was sufficiently familiar with banks to be convinced that "they are systems of speculation, calculated to suit the speculatory and mercantile class at the expense of those who are the support and sheet-anchor of your government." He referred with scorn to the broken banks of New England. The information of the speculations and swindlings in the East had made the West shun "the possibility of being engulfed in a similar vortex." The Bank "will further the views of federalism by increasing their power, and assist them in overturning the present system of government, on the ruins of which they will count upon raising one more congenial to their purposes." Not only the British capital in the

Bank, but the British possessions in North America were a menace to us. It was high time to find out whether this Bank was solid or a fraud.

Wright of Maryland, gave specifications of the alleged political influence of the Bank. Merchants of Philadelphia had signed petitions for Jay's treaty, against their convictions, and had excused themselves by saying that, if they did not do so, they could get no more bank accommodation. In Maryland, bank directors had been thrown out of office because they voted for Smith. Evan Jones had been elected president of the branch at New Orleans to succeed a good republican, although Jones was a refugee tory and was suspected of being one of Burr's men.

In answer to the argument about the constitutionality, it was pointed out that the State Constitutions did not expressly grant to the States the power to pass acts of incorporation. Nobody noticed that banks had already been incorporated by the territorial governments of the Mississippi Valley, the strongest case of all being that of the Bank of Louisiana, which was incorporated before there was even an organized territorial government.*

Nicholson, of New York, stated that the charter could have been carried a year before by a majority of nearly thirty.

The destruction of the Bank was a part of the programme of the young democrats, who wanted a war with England, in order to conquer Canada. Clay was a representative and leader amongst them. In his speech against the Bank, he complained that an act of Congress, after being passed according to the prescriptions of the Constitution, must be submitted to the president and directors of the Bank for approval. This referred to the provision that the Bank should explicitly accept the new charter if it was passed. He also said that we might be on the brink of war with England, and added, "Should such an event occur, do you apprehend that the English premier would experience any difficulty in obtaining the entire control of this institution?" The fact was often pointed out in the debate, which lay upon the face of the bill, that no foreigner could vote in the Bank. Of the 25,000 shares, 18,000 were owned abroad; the other 7,000 shares ruled the Bank. Therefore it was plain that the foreign stockholders, instead of gaining, through the Bank, any power to act upon American interests, had, by taking stock in it, put their own interests at the mercy of Americans.

Leaving aside all the subtleties about "sovereignty," the question was whether the Constitution had constituted a State, with a complete structure, adequate functions, and sufficient powers to fulfil all the duties of civil life for the welfare of the people. The opponents of the Bank argued that the State banks could perform all the services required by the government just as well as the national bank, but, as they were answered in the debate, this was admitting that some bank was "necessary," in the sense of the Constitution, for the purposes of the government. In truth, however, the gravest question in the political order of the United States was then, how much in-

* See page 61.

tegration the Constitution had given to the Union. The conception of a federal State was passionately hated and resisted by a majority of the people. They felt the discipline, order, method and punctuality of the great empire as an irksome restriction on the loose and shiftless habits of former times which they called liberty. It was true that there was such an advancing constraint. The Bank, by its symbolism, and by its functions, was the only great institution which was helping on the work of social and political integration. That was exactly the reason why it was hated by the State rights men and anti-federalists.

Testimony to this action of the Bank was given in the debate. "I ask the question: Will a bank in North Carolina trust a bank in New Hampshire? No! but the State and every individual in it would trust the Bank of the United States. You could not establish a connection between North Carolina and New Hampshire, so that either would trust the other. The establishment of the Bank of the United States affords, in this case, a facility useful and absolutely necessary to carry on the measures of the government."* It had a corresponding effect on commercial affairs. Before 1800 the collectors at the different ports kept the duty bonds in their own custody. After that time, by a new law, the bonds were deposited in the Bank for collection. They thus became bank debts, and although, as Smith of Maryland argued, trying to break the force of this fact, the coercion to pay was not in the Bank but in the custom house, nevertheless, in practice, it was the Bank usage which set the standard. Crawford said: "It is impossible to resist the conviction that the prompt and secure collection of our revenue is principally owing to the influence of the Bank." These facts, however, furnish the reasons why the Bank was hated by large classes of business men and politicians. The republicans felt sure that it never would be an ally of theirs, and therefore they thought it the simplest dictate of political policy to destroy it while they could. In vain the fact was pointed out to them that the federalists, although they had, as the opponents said, had this tremendous engine in their hands for twenty years, had been ousted by the opponents, and that the only three out and out federal States, besides Massachusetts, had no branch of the Bank, while the States in which there were branches, with the same exception, were either wholly or in large part republican.

In the House of Representatives the renewal of the charter was indefinitely postponed January 24, 1811, by a vote of 65 to 64. In the Senate it was lost by the casting vote of the Vice-President, George Clinton, February 20th.

After the re-charter was defeated, the Bank asked for an extension of the powers requisite for winding up. This was refused. In a report on it by Clay, to the Senate, it was said: "The injurious effects of a dissolution of the corporation will be found to consist in an accelerated disclosure of the

* Alston of North Carolina, February 12, 1811.

actual condition of those who have been supported by the credit of others; but whose insolvent or tottering situation, known to the Bank, has been concealed from the public at large."

March 19, 1812, the receivability of the notes of the Bank for dues to the United States was repealed, the Circuit Court of Virginia having just before decided that those notes were still everywhere a good tender for duties.*

As soon as the re-charter was definitely defeated, the Bank applied to the Legislature of Pennsylvania for a charter, to retain all its capital, and to be allowed to do business in such States as might permit it. The application was defeated, but renewed the next year, with an offer to subscribe $500,000 to public works, and to lend the State, at any time during the charter period, the same sum at five per cent.†

Charles Biddle, who was then in the State Senate, thought that it would be a great advantage to the State. His son, Nicholas, was in the State House of Representatives, and made a speech in favor of it. The objection which weighed most was that the stock was owned by foreigners.‡

Between March 1st and September 1st, the Bank paid the public and private deposits, and redeemed $3.5 millions worth of bank notes—in all $9.2 millions, and its specie fell only $335,175. In the first year of liquidation it paid $11.6 millions, and the specie stock increased $1.2 millions.§ Gallatin said that the public deposits were removed within a week before the expiration of the charter, and no harm was done.‖ He takes no note of the fact that the Bank was a creditor of the Treasury for a sum about equal to the government deposit. In his report on the selected banks, January 8, 1812, he stated that the public deposits were gradually withdrawn and that the account of the Treasury with the Bank was closed, September 2, 1811, except that $70,000 were still at the credit of the disbursing officers at New Orleans. The credits of the disbursing officers always cause ambiguity as to the public deposits. During the existence of this Bank the public deposits were not placed in it exclusively even on the Atlantic coast. The principal disbursing officers were directed by law, in 1809, to keep the public money in their hands, whenever possible, in some incorporated bank to be designated by the President. A treasury report of January 9, 1811, shows that one-third of the public deposits were, at that time, in eleven State banks, of which only three were west of the Alleghanies.

As soon as it was certain that the Bank would not be re-chartered, local banks were selected at the chief ports of entry, in which the collectors were ordered to place the duty bonds for collection. The only condition imposed on the selected banks was, that they should give a preference in discounts to persons who had duty bonds to pay. Within a year, the cash balance in the Treasury was divided in deposits between twenty-one banks.¶ As to the currency receivable for dues to the Treasury, the law of 1789, modified by

* 2 Folio Finance, 517.
† Report of the Comm. on Ways and Means, (Penn.) 1834.
‡ Memoir of Charles Biddle, 331, 335.
§ Binney's Report, March 4, 1834.
‖ 3 Gallatin's Writings, 391.
¶ 2 Folio Finance, 516.

Hamilton's orders,* came into force again, but by the Act of June 30, 1812, Treasury notes were made a good tender to the Treasury, and the first of them were issued in October.

The dividends of the Bank, down to January, 1809, inclusive, averaged eight and thirteen thirty-fourths per cent. The highest point the stock ever reached was 150. It is stated that at one time the stock of specie in the New York branch was reduced to $10,000.† It is also stated that the average loss per annum by bad debts, during the twenty years of its existence, was sixty-one one-hundreths of one per cent.‡ No financial disturbance whatever occurred upon the winding up of this bank. Carey's apprehensions proved entirely groundless.§

Its stock was liquidated at one hundred and nine dollars, one and a-quarter cents for one hundred dollars paid in. The last such payment which has been found, is mentioned in Niles' Register for September 13, 1834. Raguet calculated that if the dividends were regarded as deferred payments, compounded semi-annually, the return was equal to 97, on the day the charter expired.‖ The amount of its notes which had not been presented, in 1823, was $205,000. The court then released the commissioners from liability for them, $5,000 being reserved to meet any cases of special hardship. Eleven hundred dollars only were afterwards presented, most of it by an old Revolutionary soldier, in 1825.¶

In 1834, the city council of Philadelphia appointed a committee to inquire into the best means of closing the trust of the old Bank of the United States, in order that they might get possession of the house which had been bequeathed to the city by Girard, but which was then "in tenure" of the cashier of Girard's bank without rent. The report of this committee showed that Girard bought the banking house of the old Bank and a house in Chestnut street belonging to it, which was the one in question. The banking house had already passed to the city and was leased to the Girard Bank. It was stated that the Bank trust held at that time, $22,564 of unclaimed dividends, and had just declared a dividend of $51,250. There were some debts not collected. The city desired to take over the trust, to be administered by the Commissioners of the Girard estate. It is inferred that this was done.**

It is very desirable to form, if possible, a notion of the point of departure from which the country entered on the inflation of the following period. Blodget's figures represent the amount of specie in the currency as exceeding the paper in the first years of the century. In the debate on the renewal of the charter, however, the statements made show a very different state of

* See page 22.

† Gouge; Journal of Banking, 252.

‡ H. C. Carey; The Credit system, 1838. It is there stated also that the Bank of America, New York, lost, from 1812 to 1837, less than one-tenth of one per cent. per annum on its loans, and that Girard, in twenty years, lost one-half of one per cent. per annum in the same way.

§ Seybert, 522.

‖ Gouge; Journal of Banking, 240.

¶ 56 Niles, 273.

** 14 Hazard's Register, 216; 15 Ditto, 124.

things. "Specie has been almost banished from circulation by paper." Only notes of the Bank of the United States are current everywhere. "You can outride in twenty-four hours the credit of any other bank in the country." The paper of some of the banks is depreciated. That of others is current but a short distance.

CHAPTER IV.

The Earliest Banks in the Mississippi Valley.

AT no place and at no time has the history of banking ever been so varied, so bold, and so rich in experience, as it was in the Mississippi Valley in the first thirty years of this century. It was intertwined there with a number of the matters which touch the interests of men and excite their passions in the highest degree. It was thus linked with the political interests which were connected with the growth of the United States into a federal State; with the questions of constitutional law concerning the inviolability of contracts and the independence of the judiciary; with the question of disputed title to land, which of course affected every man in the community; and with the system of execution for the collection of debts.

The Governor of Kentucky, in his message of 1800, complained of a lack of revenue and of the economic situation which he described as "almost destitute of specie." The exports would not pay for the imports. He proposed an effort to open trade down the Mississippi. The notion was that the eastern trade drew off specie because the exchange of commodities was not mutually advantageous.* Here we see a recurrence of the ideas and of the misinterpretation of facts which we noticed on the Atlantic coast in the colonial days, in regard to the trade with England. It has been stated that silver ceased to come up the Mississippi Valley after the peace between Spain and England in 1801, but this is certainly a mistake, for that movement of silver continued to be large and important for twenty-five or thirty years more, and it would be difficult to say when it stopped.

By an Act of December 6, 1802, the Kentucky Insurance Company was chartered until January 1, 1818. The purpose was to insure boats and cargoes on their way down the river. This company was not explicitly authorized to issue notes for circulation, but it was incidentally provided that its notes payable to bearer should pass by delivery only. On reading the section of the charter it is difficult to say whether it was very craftily or very

* Butler, 295.

carelessly drawn. Butler says in regard to the institution that "it began in fraud and ended in bankruptcy." "The political party which then controlled Kentucky held banks in horror and never would have passed the bill had they understood its provisions."*

December 27, 1806, the Bank of Kentucky at Frankfort was chartered, to last until December 31, 1821. The capital was to be $1 million, half of it to be subscribed by the State. It was to begin when $20,000 were subscribed. All the debts, exclusive of deposits, were not to exceed three times the capital. It was to loan only to Kentuckians; no director might borrow over $5,000 or be an endorser for more than $10,000 in the bank. It might have branches in the State for discount and deposit only. It was to make weekly reports to the Governor, and its notes "payable on demand in current money" were to be received by the State. The debt to the State from the settlers on the vacant lands was relied upon to pay the State's subscription. The Legislature had the power to elect the president and six directors. "The political majority, when times of excitement arose, drove the bank on the shoals of party and ultimately shipwrecked the institution. The power of branching the bank became a subject of local and party contention, and the influence of the Legislature, through its election of the majority of the directory, was brought to bear upon the decision. The extension of the bank then ceased to be a mere fiscal or mercantile question to be governed by the interests of the corporation, but was converted into one of political influence."†

OHIO.—The Miami Exporting Company was incorporated in April, 1803, with "banking privileges." February 10, 1808, the Bank of Marietta asked for a charter until 1818, from which it appears that it was an already existing association. The limit of the capital was set at $500,000, besides such shares as the State might take. The State might subscribe one share for every five subscribed by individuals. It was to have one year's credit in paying for them, but was to receive dividends on them as if paid for. There was no clause providing for specie payment and no penalty for suspension; but the bank was forbidden to issue notes or contract debts "payable in the bills of credit emitted by the laws of this State." A week later the Bank of Chillicothe was incorporated, with a capital not to exceed $100,000. The State subscription and the prohibition against dealing in State notes were the same as in the case of the former bank. It was provided that this act "shall be construed in all courts and places benignly and favorably for any beneficial purposes thereby intended." At the same time the Bank of Steubenville was incorporated with all the same features. Three other banks were incorporated in 1812 and 1813. At the session of 1813-14 a number of manufacturing companies and companies to make canals and harbors were incorporated, but they were expressly forbidden to engage in banking.

In the Territory of MICHIGAN, the Governor and three Judges constituted

* Collins, 56.

† Butler, 332.

the Legislative Council. They passed an act "Concerning the Bank of Detroit," September 19, 1806; which act was disallowed by Congress March 3, 1807. An act of November 4, 1815, imposed a penalty on any proprietor or member of an unincorporated bank. The first bank was the Bank of Michigan, chartered December 19, 1817. The power of the Territorial authority to charter it was affirmed by the Court in 1831.*

TENNESSEE.—Hugh L. White, in a speech in the Senate, March 24, 1838, described the currency of the State of Franklin in eastern Tennessee, in the years following the Revolution. The salaries of the Governor, Chief-Justice and other great officers were paid in deer skins; those of the inferior officers in raccoon skins. The tax collectors cheated the Treasurer, who was not an expert in furs, by putting raccoon tails on opossum skins, and paying them in instead of the raccoon furs which they had collected.

The Nashville Bank was chartered in 1807, to last until 1818.† A copy of its charter has not been accessible, November 20, 1811, the Bank of the State of Tennessee at Knoxville was incorporated, with a capital of $400,000. The shares were apportioned amongst the counties, and there were to be commissioners in each to receive the subscriptions. It was to begin when $25,000 were paid in in specie, and the State might subscribe not more than $40,000 of the total proposed capital. It was not to owe, exclusive of deposits, more than twice its capital, and was to issue no notes under $5. It was to last thirty years; to report to the Treasurer of East Tennessee annually, and to establish branches if thought expedient. The Nashville Bank might unite with it and become a branch of it. November 19, 1811, the charter of the Nashville Bank was extended until 1828, and November 16, 1813, it was extended until 1838, the capital being increased from $200,000 to $400,000.

The Legislative Council of the MISSISSIPPI TERRITORY enacted, December 24, 1807, that taxes should be receivable in "any territorial paper, duly and legally issued by the Auditor of public accounts." All the civil organizations in the Valley seem to have used auditor's certificates as a currency from their earliest organization. In this Territory it was also necessary to provide against the malfeasance of the sheriffs, collectors, and clerks of court, by providing that they must pay in the currency which they received, whether it was specie or auditor's warrants; from which it is inferable that the latter were not at par of specie.‡ December 23, 1809, the Legislative Council of the Territory incorporated the Bank of Mississippi at Natchez, with a capital of $500,000, as a limit; $50,000 to be raised at once; to last until 1834. A supplementary act, February 6, 1818, changed the name of the bank to the Bank of the State of Mississippi. The Governor was to subscribe, on behalf of the State, one share for every four subscribed by individuals, and to appoint five directors. The capital was raised to $3 millions; it was to last until 1840. It might have branches; was to report to the Governor at his

* 7 Wendell, 539. † 3 Humphreys, 525. ‡ Act of December 24, 1807

demand, not more frequently than monthly; its notes were to be receivable by the State; no other bank was to be chartered so long as it lasted.

ALABAMA.—The Planters' and Mechanics' Bank at Huntsville was chartered by the Legislative Council of the Mississippi Territory December 11, 1816; with $50,000 capital; to last until 1837; never to owe more than three times its capital, deposits being left out of account; to issue no note under $1; five hundred shares to be reserved for the Territory for ten years. February 13, 1818, its name was changed to the Planters' and Merchants' Bank. On the last date, the Tombeckbee Bank, at St. Stephens, was chartered, to last until 1838, with $500,000 capital, with the same limit on its debts, and the denomination of its notes; two-fifths of the capital to be reserved for the Territory for ten years. The Bank of Mobile was chartered November 20, 1818, with a capital of $500,000, payable in gold and silver (a specification which had not been included in the former charters), to last until 1839. One-fifth of the shares were reserved for the Territory for ten years. As soon as the State government was formed, in the following year, we find it borrowing from these banks. In the Constitution of the State, it was provided that one State bank might be established, with such branches as the Assembly might deem expedient. No branch and no bank charter was to be renewed, except by a two-thirds vote of both Houses, and only one bank or branch might be chartered or renewed at the same session of the General Assembly. At least one-fifth of the shares of every bank must be reserved for the State, which was also to have a number of directors in proportion. The State and the stockholders were to be liable for the debts of any bank in the proportion in which they shared the stock. Remedies for the collection of debts were to be reciprocal for and against banks. No bank was to begin until half its capital was paid in in gold and silver. Twelve per cent. penalty was imposed for a failure to redeem bank notes in specie, unless the suspension should be sanctioned by the Assembly. Whenever a State bank should be founded, the existing banks might become branches of it.

When LOUISIANA was bought by the United States, the movement of silver thither from Mexico was arrested for a time, and there was a complaint of lack of currency, although Spain had a quantity of paper money called "liberanzas" afloat, which were not redeemed at once. One of the first acts of Governor Claiborne was to found the Bank of Louisiana. The non-American population was extremely displeased at this, regarding a bank as an instrument of robbery, and fearing more paper money.*

In 1811, two banks were chartered—the Planters' Bank and the Bank of Orleans. The former was an already existing association. The capital was to be $600,000, payable in specie. It was to last fifteen years. The Bank of Orleans was to have a capital of $500,000, to last for fifteen years, and the subscriptions were made payable in money or "notes payable to the directors." This and the following are the only cases in which we have found,

* Gayarre; Louisiana under American Domination, 15.

in a charter, an explicit provision for what appear to be stock notes. It may be added here that the charter of this bank was extended March 26, 1823, until 1847, it being provided that a bonus of $25,000 should be paid, and that the old notes should be replaced by new. The Louisiana State Bank was chartered March 14, 1818, with a capital of $2 millions. One-fifth of the subscription was to be paid at once "in cash or notes payable to the directors," endorsed to the satisfaction of the managers, who might also accept mortgages. One-quarter of the capital was reserved for the State, which was to subscribe $100,000 at once, and appoint six directors out of eighteen. The bank was to last until 1870; to organize when $500,000 had been subscribed by private individuals; to establish five branches within six months; and to pay a bonus of $100,000. No provision was made in any of these charters for the case of suspension.

March 3, 1819, the Louisiana Bank was ordered to liquidate before March 12, 1822.

MISSOURI.—The Bank of St. Louis was chartered August 21, 1813, to last until 1838, with a capital of $150,000. The Territorial government might take one-tenth of its shares; it might have branches in the Missouri Territory, and could carry on a lombard business with fur, lead, or other commodities deposited in the control of the bank. Not more than one-quarter of the capital might be sold out of the Missouri and Illinois Territories.

The Bank of Missouri was incorporated, existing already as an association, January 31, 1817, with a capital of $250,000. It might have branches. The Territory reserved an option for ten years to subscribe 1,000 shares. It was to last until 1838, and must pay specie or forfeit five per cent. per month during refusal. Unauthorized issues were forbidden December 12, 1820, and it was forbidden to pass them. Notes of incorporated banks of other States, if not under $1, were not included.

The earliest State Constitution which contained any mention of banks was that of Indiana, of 1816, in which it was forbidden that any corporation should be created to issue "bills of credit or bills payable to order or bearer," but a State bank with branches might be established. The Mississippi constitution of 1817 provided that no bank should be incorporated in which one-fourth of the stock was not reserved for the State, with the power to appoint a proportionate number of the directors. The provision on this subject in the Constitution of Missouri, 1820, was: "The General Assembly may incorporate one banking company, and no more, to be in operation at the same time."

PERIOD III: 1812 TO 1829-32.

Local Banks are Multiplied to Replace the Bank of the United States. Their Issues are Stimulated by their Fiscal Functions, soon Intensified by War Financiering. A Commercial Crisis is Produced with a Prolonged Liquidation, Attended by Various Experiments in Bank Issues and Stay Laws for Relief. A Banking System is Created Consisting of Local Banks Co-ordinated Around a Bank of the United States, as a Regulator of the Currency, and Fiscal Agent of the Government.

CHAPTER V.

Inflation on the Atlantic Coast.

THE war of 1812 was undertaken in the belief that it could be conducted by loans, and without the necessity of taxation. Gallatin was relied upon as a competent financier, but the role which had been assigned to him he was not willing to undertake. He accepted an appointment as one of the Peace Commissioners, and departed to Europe. As soon as the attempt was made to obtain resources by loans, the fact was developed that they could be obtained only in the Middle States. The New England States were strongly opposed to the war. In the South there was no superfluous capital. The Middle States were enthusiastic for the war as a continuation of the embargo system, and a "protection to domestic industry." The stringent measures which were taken to prevent importations, as a war measure, cut off the revenue. The loans met with only slight success, and the real financial resource consisted in treasury notes, bearing five and two-fifths per cent. interest. These at once stimulated banking issues in the Middle States. Campbell, Secretary of the Treasury, in 1813, wanted the exportation of specie forbidden, believing the banks would then loan to the government more freely, and the President recommended it in a message, but Congress would not adopt it.

In order to supply the place of one bank with $10 millions capital, 120

banks with $30 millions capital were created, according to the best statistics we have, between 1811 and 1815. A few banks in Maine suspended early in 1814, and the three banks of New Orleans in April. The English having invaded the District of Columbia and burned Washington, in August, the District banks suspended. Those of Philadelphia followed on the 30th, and the other banks of the Middle States immediately afterward. In explanation of this action of the banks, it is stated that a large amount of English government bills had been sold here at a very heavy discount. In his report of February 12, 1820, in which he reviewed the financial history of the last eight years, Secretary Crawford attributed the suspension to bank inflation, small notes banishing specie, and accommodation paper. Isaac Bronson attributed it to the anomalous state of things produced by the war, cutting off intercourse, so that inflation produced no demand for export.*

From the time of this suspension the banks of the Middle States entered upon a career of reckless increase of their issues stimulated by the public loans. "It is impossible," said Crawford, "to imagine a currency more vicious than that which depends upon the will of nearly four hundred banks, entirely independent of each other, when released from all restraint against excessive issues."

The banks of New York City agreed to take each others' notes and pay interest on debtor balances monthly. No bank was to increase its loans unless bound to lend to the State, and the debtor banks were to diminish their discounts when the general committee of the banks should recommend that this be done.†

The notes of the Connecticut banks disappeared from circulation and those of the suspended banks further south took their place. "At a special session, January, 1815, the General Assembly [of Connecticut] empowered each incorporated bank in the State to issue bills to the amount of one-half the actually paid capital, receivable for all debts due the same, and payable in specie on demand two years after the close of the war. Presidents and cashiers were to make statements semi-annually to the General Assembly of the amounts outstanding at the time of such returns. In October, 1814, the General Assembly had authorized them to issue promisory notes of less denomination than $1 for the payment of money only."

"Our banks now put out bills under two forms, the first promising to pay the bearer ——— dollars in notes of New York banks, on demand at the ——— bank in New York, or in specie two years after the war; and the second promising to pay the bearer ——— dollars two years after the war. Both were receivable for all debts due the several institutions issuing the same. The public named them 'facilities.' Fractional notes ranging from six and a quarter to fifty cents were also freely injected into the currency. Individuals and corporations, barbers and bartenders, as well as manufacturers and capitalists, the solvent and the insolvent, further variegated the

* 2 Raguet's Register, 12. (1832).

† Publicola; Letter to A. Gallatin, 1815, in 5 Examiner, 8.

assortment of 'shinplasters' by liberal contributions, some professing to call for money and others for services."

"At the May session of 1815 the power granted to the banks to emit post-notes payable two years after the end of the war was made to cease and determine from the first day of January, 1816. The issue by any unauthorized person, persons, or corporation of paper intended to pass in lieu of money was prohibited under heavy penalties."*

The southwestern part of New England did not, therefore, escape the contagion.

The currencies of the various parts of the Union at once began to fall to different stages of depreciation, and the internal exchanges were thrown into confusion because the quotation contained the depreciation.

In some respects the period on the study of which we are now entering is without a parallel. The question uppermost in a man's mind in regard to whatever is offered as a circulating medium is: Will it pass? That means: is it the money of account, in which prices and contracts are set, so that it will be accepted as cash, without discount, dispute, or delay? If the money of account is specie, paper notes may still be cash; namely, if they are at once exchangeable for the coins whose name they bear. If they are not so exchangeable, they degenerate at once into negotiable instruments, and are not cash. If they fall to a uniform discount, as negotiable instruments, they may become the money of account, superseding specie. Then they are cash again. The discount is included and accounted for in the prices and terms of contract. People who are unfamiliar with affairs then do not know that there is any discount or any negotiation. If the discount of the paper varies, an insurance rate is included in the prices, etc., but, as it is uniform, it is unnoticed. These latter suppositions were fulfilled in the case of our paper money after the civil war. It was our money of account, or "current funds," and was cash. This is why people came to think that it was money and lost the sense of its relation to money. In 1814 the notes of each bank were at a different rate of discount. Each town or county accepted some one kind as its local money of account. Others in the same place and groups of them in other districts were quoted with reference to that one, but the great characteristic of the period was, that the varieties were so great, and the badness of all was so extreme, that there was no money of account. The state of things is very difficult to understand and realize, and is almost incredible. It was the *differences* at the same time between the existing media of exchange which produced the result that there was no medium. Exchanges were made by barter of such paper as one had for the goods which the other had.

Specie became very scarce in the Middle States and remittances could hardly be made. We are told, however, that the places where the currency was worst were the best places at which to import foreign commodities;

* Woodward, Hartford Bank, 115.

no doubt because there was a double transaction in converting the currency obtained, and bringing home the proceeds in specie or in government securities.

The Treasury, as we have seen, after the expiration of the charter of the Bank of the United States, received duties in the bank notes of the port at which the goods were entered. Consequently there was a further advantage to import commodities at the port of entry where the currency was most depreciated. Hence Philadelphia and Baltimore enjoyed a period of great apparent prosperity, for, in July, 1815, New York paper was at 14 per cent. discount, and Baltimore paper at 16 per cent. discount, compared with Boston paper or silver. The discount on southern and western paper, at that time, was small.

The government suffered the greatest loss and embarrassment from the derangement of the currency. Boston was the money market of the country, and there were heavy disbursements there, which must all be made at specie par; but there was no revenue there, all being obtained further south in depreciated notes. If any one had payments to make at Boston to the Treasury, he bought notes of the suspended banks to the southward with which to do it. Hence Secretary Crawford stated that "until the resumption of specie payments in the early part of 1817, treasury notes, and the notes of the banks which had suspended payment, formed the great mass of circulation in the eastern parts of the Union. Specie, or the notes of banks which continued to pay specie, formed no part of the receipts of the government in Boston, and the districts east of that town, until about the close of the year 1816."

June 15, 1815, the Secretary of the Treasury gave notice that he would not receive the notes of any non-specie paying banks which did not take treasury notes at par with their own notes. If the notes of any bank stood higher than treasury notes, it refused to receive the latter at par. Such banks were in general the creditor banks, and the best ones, and the Secretary's rule led him to refuse their notes while he accepted those of the worse banks. August 15th he published a list of the banks whose notes he would no longer receive. He said that the proposition which he had made to the banks had been generally acceded to by them "*with the exception of those which pay their own notes on demand, in gold or silver*, and those who are specified in the subjoined list." The specie paying banks of New England so far as they received treasury notes, suffered for it, and were afterwards petitioners for redress.*

Advertisements were made by the Secretary for subscriptions to a public loan, March 10th, the object of which was to fund treasury notes and get a "supply of the local currencies of different places in some proportion to the probable amount of the local demand." Up to April 19th, he received no bids over 89, and some as low as 75. "Upon this experiment," he says, in his

* 4 Folio Finance, 1026, 1033.

report for 1815, "it was seen at once that the new situation of the Treasury required a new course of proceeding, and that neither the justice due to the equal rights of the public creditors, nor a fair estimate of the value of the public property, nor an honorable regard for the public credit would permit the loan to assume the shape and character of a scramble, subservient to the speculations which create what is called a market price, and shifting in every town and village of every State, according to the arbitrary fluctuations of what is called the difference of exchange." He, therefore, fixed the price of his stocks at 95, not specifying in what, and he gives a table of the subscriptions received at different places, distinguishing subscriptions in money (*i. e.* the bank note currency of the place) from subscriptions in treasury notes. The table shows how little "arbitrary" was the difference of exchange. The quotations on the 19th of August were as follows: at Boston, treasury notes, fourteen and fourteen and one-half discount, local currency at par of specie; at New York, treasury notes, par; specie 12 per cent. premium in local currency; at Philadelphia, treasury notes, par, specie 15 per cent. premium; at Baltimore, treasury notes three and four premium, Boston notes 16 premium, Philadelphia notes two premium, New York notes seven premium, specie 16 premium; at Washington about the same as at Baltimore. Turning now to the Secretary's table, we find that he received his largest subscriptions at Washington, Baltimore, and Philadelphia, and less and less further East. At Washington, only one-eighth of the subscriptions were paid in treasury notes, the rest in the local currency. At Baltimore not quite one-third were paid in treasury notes, the rest in currency. At Philadelphia nearly one-half were paid in treasury notes. At New York very nearly all were paid in treasury notes. Elsewhere nothing but treasury notes were received. The case is a remarkably good one to prove how absolutely certain the facts of value are to vindicate themselves against any attempt to juggle with them.

It must be added that, as between different bank notes, the Treasury received the worst. In a Treasury report of February 12, 1821, it was stated that there were then $818,590 to the credit of the Treasury, as special deposits in suspended banks. The Treasury also held $482 in counterfeits. In a report of February 1, 1838, it was stated that the amount of bank notes received between 1814 and 1817, and still on hand in 1838, amounted to $178,470, and that "the direct loss to the United States on bills that were depreciated but were still received and paid out again on public account probably equaled five or six millions of dollars."*

In December, 1816, before the Bank of the United States went into operation, the Secretary had to borrow $500,000 from it, with which to pay interest at Boston. In his report for 1816, he complained that he could not tell which notes were at par and which not. The depositories would only accept the notes which he had received, as special deposits, and he was obliged to keep four accounts, "cash," (*i. e.* local currency), special depos-

* See page 356.

its, treasury notes bearing interest, and treasury notes not bearing interest. He too had no money of account.

The financial exigencies had become so great, even in 1813, that the minds of men began to turn once more to a national bank. There were fears about the proceedings of the local banks. The very men who had so jauntily declared, in the debate on the renewal of the charter of the United States Bank, that the fiscal affairs of the government could be carried on quite as well by the local banks, saw already grave reason to doubt whether that would prove to be true. The old dilemma was renewed between the social sentiments and political opinions hostile to the bank on the one side, and the financial exigency on the other. It was not at all on account of a change of political opinion about a bank in the administration party that the project of a national bank was taken up again; but, against their will, and with deep misgiving and dissatisfaction, they turned back to that device.

The subject of a national bank was brought up in Congress, January 4, 1814, by a petition from New York City, but nothing was done at that session except to appoint a Select Committee. As soon as Congress re-assembled in September, the subject was taken up again, the finances being in a desperate condition. Secretary Dallas proposed a national bank, October 14th, the leading motive being to obtain financial resources. In order to serve this purpose in the way desired by the administration, the proposed bank must be a non-specie-paying bank. One bill was completed and brought to a vote in the House, January 2, 1815, when it was defeated by the double vote of the Speaker, Cheves. Then, having been re-moulded, it was passed, 120 to 38, containing a provision against suspension. The Senate restored the provision for suspension, but afterwards receded and the bill was passed on the 20th, for a bank which might not make loans to the government and might not suspend; that is to say, it created a national bank of a general and permanent character, suitable for peace times, and not such a machine for war finance as the administration wanted.

President Madison vetoed the bill, because the bank, as provided for, "cannot be relied on during the war to provide a circulating medium or loans or anticipations of revenue," on account of the clauses forbidding it to make loans or suspend. In this history we have seen Madison vote against the Bank of North America, furnish the leading argument against the constitutionality of a Bank of the United States, in 1791, and the one which was most relied on by the opponents of the re-charter in 1811. Now, as President of the United States, in the midst of a war, his action must be taken to mean that he not only thought a bank constitutional if it was a sound institution, but even if it was to begin under a suspension of specie payments. The only excuse was that such an institution was "necessary" to the purposes of the State—that is, that it was constitutional in such form as the Legislature or the administration, under the circumstances, might find necessary. The position of the Senate had been that the chief reason for wanting the bank was to get loans from it for the war. If these were obtained, it could

not maintain specie payments. Why, then, make it at all without a provision for suspension? This leaves us face to face with the fact that the mismanagement of the war finances was forcing the federal government to set up a paper money machine.

February 6th, another bill was introduced in the Senate for a bank with $50 millions capital, $20 millions in treasury notes, fundable in six per cent. stock, $15 millions in six per cent. stock, $5 millions in specie, $10 millions by the government in four per cent. stock. It was not to pay its notes in specie until the last installment on the capital was paid. There were to be five equal installments, the first payable April 1st, and the four others quarterly thereafter. Congress might at any time authorize a suspension of specie payments on petition of the directors. February 10th, the Senate refused to strike out the last provision and passed the bill. February 17th, the day on which the news of the signing of the treaty of Ghent arrived, and as it appears, under some premonitions of that news, the bill was indefinitely postponed in the House. Jacob Barker, who had a great speculation on this project, was in Washington at the time. He says that the bill had passed both Houses, and lay on the clerk's table for assent to be given by the Senate to a change in respect to the date of organization, "when an express on its way to Alexandria for a speculation in flour passed through Washington with the news of peace, which so elated Congress that the members left their seats without waiting for an adjournment, and they could not again be induced to consider the question of a national bank during that session. This bill was framed with a view to induce moneyed men to subscribe to its stock. It was the best ever devised. It did not impose any bonus, and if it had then become a law would have worked wonders." * * * "Had the news been delayed a single hour, the bill would have passed and its stock would have been worth 100 per cent. premium."*

At this point, then, all demand for a national bank as a means of war finance ceased, but a new demand arose for it to regulate the currency, which had now fallen into great disorder. We lay emphasis here on the story of the legislative birth of the second Bank of the United States, the circumstances which led to it, the motives which impelled the actors, and the necessities which gave the controlling ideas, because this is all-important with respect to the character of the institution which was produced. This has been sufficiently apparent already in the struggle over the question whether the bank, for war finance, should suspend or not. We shall hear no more of any suggestion that the bank, if created, should contemplate suspension as a possibility. It was as a regulator of the currency above everything else that a bank was now called for, and the motive for it was weariness, contempt, and disgust, in regard to the local banks and the currency provided by them.

* Life of Jacob Barker, 123.

One of the chief reasons given by the opponents of the old Bank of the United States for winding it up was to find out whether it had been useful or not. In 1815 it was almost universally believed that this question had been fully answered by experience, and that the experience had been costly.

During the year 1815, the bank note currency became worse and worse. The story is told of a "little Frenchman and his bank notes," who entered the country at Savannah with specie and travelled up the coast to Boston. He found his "money" all the time melting away. His American adviser told him that if he would begin at Boston and go back again, he could recover it all. The Frenchman, "holding up a parcel of ragged, dirty bills, pregnant with filth and disease," said: "Voila! it's like making a difference between the rags of one beggar and the rags of another."*

Another traveller gives his own experience: "Such was the state of the currency that, in New Jersey, I met with an instance where a one dollar note I had taken in change, which was current on one side of a turnpike gate, would not pass at an hundred yards' distance on the other side."†

The following case illustrates the difficulty of enforcing rights against a bank: A gentleman of Richmond wanted to enforce the payment of ten notes for $100 each against the Bank of Virginia, in 1815, but he could not get a lawyer to take his case until the following year. The president refused to obey the summons of the Court. The Sheriff brought him by force to Court, and, as the bank still refused to pay, the Sheriff closed its doors. The bank then brought suit for damages against the plaintiff, and instituted proceedings against the Sheriff. It re-opened its doors and went on with its business. No means were found to make it amenable to law. The "Richmond Enquirer" said that it was perfectly sound and able to resume, but held its opinion that it was not expedient to do so until others did.‡

Another cause of irritation with the banks was that they were held to have failed completely as agents for the fiscal operations of the federal government. Gouge quotes a statement from a pamphlet by "A Friendly Monitor," attributed to W. Jones, first president of the Bank of the United States, that the State banks, depositories of the public money, refused to make the necessary transfers for the government expenditures, and finally refused to pay the balances due by them, except in the ordinary course of public expenditure at the places in which they were, claiming indulgence on various pretexts, while they held the paper of the other banks, which had come to them in payment of the public deposits, and prevented those banks from resuming.§

The President, in his message for 1815, urged Congress to provide for a "uniform" currency, either by a national bank or by government issues. The Committee on Currency asked Secretary Dallas, December 23d, for his opinion as to the amount of capital, the form of government, the privileges, and the organization of a national bank, and as to the amount of bonus

* Gouge; Journal of Banking, 259. † Thomas; Reminiscences, 84. ‡ 9 Niles, 370.
§ Gouge, Journal of Banking, 284.

which the bank ought to pay and the measures by which it might be aided in restoring specie payments. He replied the next day by a sketch of the bank as subsequently established. As to resumption, he thought that the best way to assist it, would be for the Treasury to refuse to receive notes of any bank which did not pay specie after December 31, 1816. He declared resumption impossible without a "contraction" of the existing issues.

The charter of the Bank of the United States became a law April 10, 1816. It passed the House, 80 to 71, and the Senate, 22 to 12. The federalist opposition at this session was due to the fact that the Bank would be in the hands of the opposite party. An amendment to establish the Bank in New York City was passed, but Dallas obtained a reconsideration. The New York members held a conference to secure its location at New York or its defeat; but one of the New York City members said that he had promised the administration to vote for the Bank and that he should do so. Upon this the effort was abandoned.*

It was chartered for twenty years. Its capital was to be $35 millions, $7 millions in specie, $7 millions by the United States in five per cent. stock, and the rest in specie or public stocks of the United States. It was to pay a bonus of $1,5 millions in three installments after two, three, and four years. It was not to issue notes under $5, and was not to suspend specie payments under a penalty of 12 per cent. There were to be twenty directors chosen by the stockholders, and five, being stockholders, appointed by the President of the United States. No person might subscribe over 3,000 shares, unless the total subscription should be less than $28 millions. In that case, one person might subscribe the deficiency. The subscriptions were to be paid in three installments: 1—At the time of subscribing, $5 in specie and $25 in specie or stock; 2—Six months afterwards, $10 in specie and $25 in specie or stock; 3—Six months later, $10 in specie and $25 in specie or stock. The Secretary of the Treasury might at any time redeem the public stocks in the capital of the Bank at the rates at which it was provided that they should be received in subscription; namely, the six per cents at par; three per cents at 65; seven per cents at 106.51, and accrued interest. He might also redeem the five per cent. stock to be given by the government for its subscription. The directors were to be chosen annually and no one of them might be a director in any other bank. The Bank was to commence operations when the second installment was paid. The stockholders were to have one vote for one share or two shares; one vote for every two shares above two and not above 10; one vote for every four shares above 10 and not exceeding 30; one vote for every six shares above 30 and not exceeding 60; one vote for every eight shares above 60 and not exceeding 100; or one vote for every 10 shares above 100; but no one was to have over thirty votes. Stockholders actually resident in the United States and none other might vote by proxy. Five of the elected directors and one of the appointed directors were to go out each year, and

* 1 Hammond, 573.

no one might be a director more than three years out of four, except the president. The Bank might not buy public stocks nor take over six per cent. for loans. It was forbidden to loan the United States more than $500,000, or any State more than $50,000, or any foreign prince or state anything. It was bound to transfer public funds from place to place at the demand of the Secretary, without charging for difference in exchange. Congress was to charter no other bank during the period of this charter. The Bank was to give to the Secretary of the Treasury, reports of its condition as often as he should require them, "not exceeding once a week." It was allowed to issue post notes for not less than $100, having not more than sixty days to run. The directors of the parent Bank appointed the officers of the branches, and fixed their compensation, and established by-laws for them. It might accept deposits of specie, paying not more than one-half of one per cent. for them. It was bound to keep in separate books the accounts of the government and of private individuals. The total amount of its debts, exclusive of cash deposited, was limited to the amount of its capital, unless Congress should otherwise allow.

This charter was evidently imitated from Hamilton's charter of the first Bank as nearly as personal and party pride would allow. The best criticism on it will be its history, but there are two or three points in regard to it, which produced immediate consequences. The country was suffering from excessive banking, upon which this Bank was to act as a check. It began with a very large capital which it was forced to employ. In the course of events the Secretary found the revenues of 1817 so large that he was able to redeem $13 millions of the public debt in the capital of the Bank during that year. The Bank was therefore forced to employ this large sum actively, even if it had been content otherwise to leave it quiescent in government stocks. At the same time, it became the creditor of the State banks for the vast amount of their notes, with which the Secretary accomplished that redemption. This put it in the power of the Bank, it is true, to exercise the great function, for which it had been created, of regulating the currency, by exerting great pressure on the State banks. It could force them to retire their issues and resume specie payments; but it was sure to arouse angry opposition and complaint. The banks had no desire whatever to be regulated.

In the second place, if the plan of putting public stocks in the capital had had very little ground in the first Bank, it had none in the second, after the war was over. The construction of the Bank on this plan gave unnecessary occasion for cavil at the favor shown to holders of government bonds.

In the third place, there was no reason why the nation should hold any stock in the Bank. The government itself, being destitute of capital and involved in the difficulties of disordered finance, although it was no longer compelled to find means for heavy war expenditures, the example of creating a great stock note with which to buy bank stock, repeating the operation

which it had performed with great profit, as we have seen, in the first Bank.* It made a note at five per cent., interest payable quarterly, to take stock in a bank which could not be expected to pay over seven per cent. semi-annually. When the troubles came and the Bank paid no dividend, its enemies were fond of figuring up how much the public paid annually for the privilege of being a stockholder.†

This, however, only touched upon the profit or loss of the arrangement, not on its propriety. When the government gained by the Bank, as it did later, private individuals naturally asked themselves why they might not, by associating themselves, do the same. Ten men who, individually, could not have borrowed ten dollars apiece, associated themselves into a "bank" and by circulation and deposits borrowed $100,000.

In the fourth place, the arrangement about voting on stock in the Bank, although it was universal and had been borrowed from England, proved mischievous. Some gentlemen at Baltimore who had had great experience in organizing financial institutions had devised the plan of subscribing by attorney. George Williams a government director took 1,172 shares as attorney in the name of 1,172 different persons. In his testimony before the Committee of 1819, he declared that this was a common procedure, which indeed it was, and that the market price of proxies was eleven pence. Baltimore took in all 40,141 shares on 15,628 names, and got 22,137 votes out of 77,759, which was the total number of votes which all the stockholders were entitled to under the rule, taking the subscriptions as they were actually made. The clique at that place thus took less than one-seventh of the shares and got over one-fourth of the votes. At Philadelphia, where one-third of the shares were taken, only two-ninths of the votes where held.

We must also notice that the public expected of the Bank faultless performance of two functions. It was to provide a uniform currency or equalize the exchanges, and it was to collect and pay, on behalf of the Treasury of the United States, at all points and without delay. Under the former head, it was expected not only to furnish notes of its own at a uniform value everywhere, but also to force the local banks to come to an equality by coming to the same standard. The notion of equalizing the exchanges, or making a uniform currency is elusive and illusory. What people meant was that they wanted to be able to put a note in a letter at one place and have it current at par of specie at any place to which it might be sent. In the discussions which arose it was often unclear whether it was expected that all notes should be equally valuable at all places, or at all times, or all equal to each other. The only realizable equality was that all should be brought up to specie at the place of issue and redemption, and in that sense, be equal to each other. The more intelligent demand on the Bank was that it should make its own notes a universal currency, and force the local banks everywhere to keep theirs up to par with those of the Bank.

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* See page 49.

† 20 Niles, 289; 21 Niles, 335.

There was also a very general popular expectation that it would do more than this, and would do away with any rates of exchange, properly speaking, between different points. Great fault was found with it for charging for drafts. It is very clear that too much was expected of it under this head. Considering the immense extent of territory over which its nineteen branches were scattered, and the difficulty, delay, and expense, of transportation and communication, it was not possible, in the early years of its existence, that it should do what was expected of it under either of these heads.

The Bank had also to contend with clamorous demands for branches at a great number of points, with all the familiar phenomena of local jealousy and ambition.

The only measure which was at once adopted, which was calculated to enforce specie payment, was a rule in regard to the currency which the government would receive for its dues. Dallas wrote to Calhoun, March 19, 1816, urging that Congress should designate specie or its equivalent as the only currency which might be accepted at the Treasury; also that it should forbid the deposit of public funds in non-specie-paying banks, and should lay a very heavy tax on any bank notes which were not redeemed in specie on demand. The bank interest in Congress was too strong to allow any such stringent measure to be passed. The result was the resolution of April 29, 1816, that the Secretary should take measures, as soon as may be, to secure payment in specie or United States Bank notes, or treasury notes, or notes of specie paying banks, and that nothing else ought to be received after February 20, 1817. This took from the Secretary the power, after the nominal resumption of specie payments, to reject the notes of banks which pretended to pay specie. The history of the years 1817 to 1819, as far as the interests of the federal Treasury were concerned, would have been quite different if Dallas's recommendation had been adopted. Matthew Carey* objected earnestly to this resolution, with the resumption of specie payments which it contemplated. He declared that there was not specie enough on hand or to be had to maintain the system proposed. He wanted specie notes to be used only in part, and for the rest credit notes, by which the bank should pledge itself to receive the notes for specified sums in the payment of debts to itself.

This period was, considering the circumstances, one of active literary discussion on topics of currency, and Carey was one of the most active writers. In a public letter to Calhoun on resumption, he objected to it until the balance of trade should come around so as to protect the specie stock. He objected to the stamp tax, which, as we have seen, Dallas had proposed to be laid on non-resuming banks, because the specie stock was quite inadequate to sustain a general resumption. In his Letters to the Bank Directors of Philadelphia, he described the great prosperity of 1816. It was the golden age of Philadelphia. An immense business was done with great profit,

* Essays, 167.

upon bank credit, the banks being very liberal. Superficial observers have blamed them for too free loans, over-issues, and over-trading. These charges were highly unjust. They were only to be blamed for too great loans to some individuals, and for curtailing their loans in order to invest in government securities. He expected the national bank to emancipate men from slavish dependence upon the local banks for loans.*

One of the current notions of the time, which always recurs under similar circumstances, was that it was the specie which had advanced and not the paper which had depreciated; and another was that by the advance of civilization and its arts, paper had superseded specie as money. These notions were very wide-spread in England at the time, under the suspension of specie payments by the Bank of England, and they can be traced in the writings of the American pamphleteers. Of the former notion, Raguet said that it was beginning to be abandoned in 1816.† Both these doctrines were most ably expounded by Dr. Bollmann in his "Plan of Money Concerns." In this "Plan" he maintained that the general government ought to agree to pay the interest of the public debt in coin, and that the notes of the national bank ought to be payable on demand in six per cent. stock at par, or in specie at the option of the institution. The national bank ought to have no branches, but to be the bank of the banks. The notes of all the banks in any one State should be made convertible on demand in the notes of one designated central bank, and the notes of these chief State banks ought to be redeemable in notes of the national bank. There should be no notes of the national bank under $5, and said notes should be made legal tender. The charter of the Bank of the United States was published in time for him to notice it in a postcript. He was extremely displeased with it. "A volume might be written on this ill-judged scheme."

Carey pronounced Dr. Bollmann's plan a magnificent one, and said: "It would be a sovereign remedy for all the financial difficulties of the country."‡ That plan seems to have influenced the minds of the persons who invented the Pennsylvania "relief" system of 1841.§

An anonymous writer of 1819‖ ridicules the notion of a lack of circulating medium urged in favor of banks of circulation. "Everyone ought to, and will, receive of the circulating medium that quantity which he is entitled to by his property or industry, unless it is diverted from its natural channels by the knavery of banking Legislatures, which is the case in this country." He regarded note-issuers as robbers.

Dallas issued a circular July 22, 1816, in which he called upon the banks, especially those of the Middle States, to meet the Treasury in an effort to put the resolution of April 29th into effect. He proposed that the banks should agree to the publication by the Secretary of a notice that he would not receive, after October 1st, any notes of any bank which did not pay its notes for five dollars or less in specie, and that, after February 20, 1817, the

* Essays, 161. † Report on the Distress, 1820. ‡ Letters to the Directors of the Banks, 1816.
§ See page 344. ‖ Cause and Cure of Hard Times, 12.

joint resolution should be the rule of the Department. August 6th, a meeting of representatives of the New York, Philadelphia, and Baltimore banks was held at Philadelphia, at which it was voted not to approve of any such notification by the Secretary, and to express to him the opinion that resumption ought not to be attempted before July 1, 1817. It being thus clear that nothing could be obtained from the banks in the way of voluntary co-operation, the Secretary published a notice, September 12th, that the Department would receive after February 20, 1817, only the currency approved in the joint resolution of April 29th. The fact was that there was no authority which could deal with the banks. W. H. Crawford, of Georgia, became Secretary of the Treasury, October 22, 1816. There were at this time 89 banks of deposit.* In a letter to the Senate, in 1823,† Crawford says that, when he took office, the Treasury had $11 millions in the State banks. Urging them to join the Bank of the United States in resuming, he offered not to draw on them before July 1, 1817, unless his receipts should prove less than his expenditures, which there was no reason to apprehend, and that then he would only draw gradually and not in favor of the Bank of the United States, unless it should be necessary in order to protect that bank against the State banks. They refused. Here certainly there was very dainty action with regard to the "removal of the deposits." His further correspondence with them shows the same disposition on their part, and the same lack of authority on his side.‡ No such insubordination was ever manifested by either Bank of the United States as characterized the State banks in the dealings of the government with them.

Subscriptions for the stock of the Bank of the United States were opened at various points July 1, 1816. When the reports were received, it was found that the subscriptions fell short of the $28 millions open to the public by $3,038,300. Stephen Girard subscribed this sum. The Secretary of the Treasury informed the Commissioners at Philadelphia, August 16th, that the stock had been subscribed, and recommended them to proceed with the necessary preparations for opening the bank.

It has been said above that the public conception of the way in which this bank was to bring about resumption and "equalization of the exchanges" was very vague; but the fear in the State banks that in some way or other it would force resumption was also vague, and their reduction of their liabilities, with an improvement in the exchanges, commenced from the time that the bank stock was subscribed. The banks held large amounts of public stock, as we have seen. These they were unwilling to dispose of for the reduction of their issues, and some complaints arose that they confined their reductions entirely to their discounts. Some of them had lost on public stocks in 1814, and as those securities were now rising, it was a good investment to hold them. These bank contractions arrested the speculations which were in progress, which accounts for Carey's complaint.

* 3 Folio Finance, 719. † 4 Folio Finance, 266. ‡ Ibid., 494.

Others complained far louder than he. Virginia tried to force resumption by a State law, but the opposition prevailed to secure a postponement of the day set and, subsequently, a return to inflation. However, in the latter part of 1816, no crisis or panic at all occurred. No evidence of distress in the business of the country appeared. The exchanges steadily improved down to the day fixed for resumption. At the end of July, specie was at par at Boston, at five per cent. premium at New York, at eleven or twelve per cent. premium at Philadelphia, at fourteen or fifteen per cent. premium at Baltimore. Southern and western notes were generally at a discount of about the cost of shipping specie from the place at which they were issued to the place at which the quotation was made. In September, it was announced that the New York banks were paying specie.*

In November, the comparative quotations of public stock show that the currency of Boston and Charleston was at par, that of New York, at one and a-half per cent. discount, that of Philadelphia at six per cent. discount, and that of Baltimore at nine per cent. discount. A Treasury circular was issued January 28, 1817, to the banks of Pennsylvania, Delaware, and Maryland, stating that the Bank of the United States had been authorized to receive the public deposits in those banks, the manner of transfer being left to that Bank.† February 1, 1817, the banks of New York, Philadelphia, and Baltimore agreed to resume on the 20th of February, the day which the Treasury Department had proposed and always adhered to, the Bank of the United States promising not to call on them for balances until after it should have discounted for individuals at New York $2 millions, at Philadelphia $2 millions, at Baltimore $1.5 millions and in Virginia $500,000. February 22nd, the quotations of the exchanges were at New York, in the local currency, Boston one premium; Philadelphia par to one-quarter discount; Baltimore three-quarters discount; Virginia and North Carolina one-half discount; South Carolina and Georgia par; New Orleans two discount.

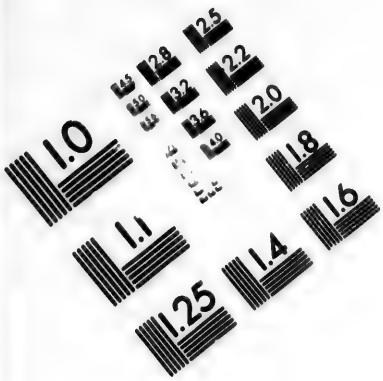
During the whole of the Fall and Winter, the foreign exchanges were favorable and silver was imported in great amount. It must be remembered that irredeemable paper was in use at this time nearly all over Europe, except in France. The English bank notes were depreciated from six per cent. to ten per cent., although rapidly improving during this year by the destruction of large numbers of country banks. This depreciation abroad made it easier to draw specie to America.

The important point now, for our purpose, is, that on the day appointed for resumption, February 20, 1817, the currency had been, in fact, brought to specie par all over the country. To secure resumption it was only necessary to still further withdraw bank notes, which would have been replaced by silver, and would have been no contraction.

The Bank of the United States was organized November 1, 1816. Ten of the elected directors were federalists and ten republicans. The President

* 11 Niles, 81

† 4 Folio Finance, 283.



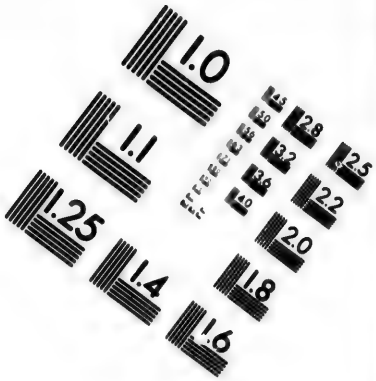
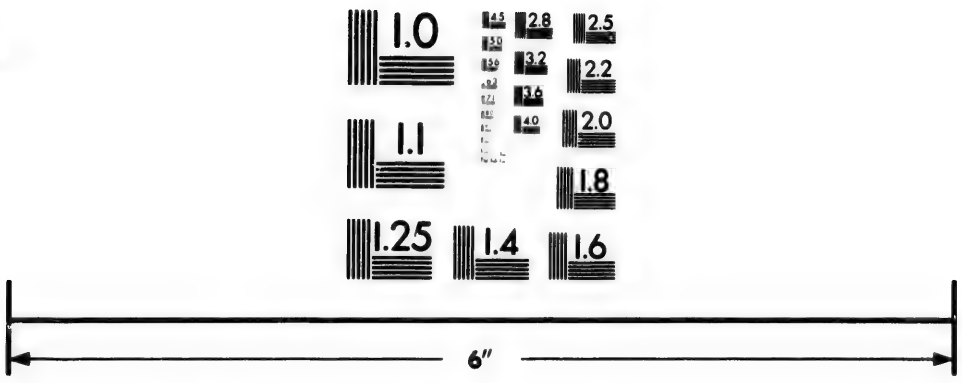
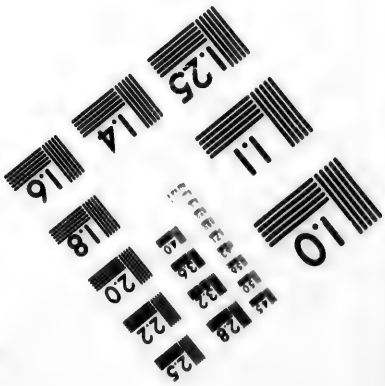


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appointed five republicans. November 28th, Niles's Register reported: "United States Bank scrip has sold at Philadelphia for $42.50 on the original installment. Speculation is the order of the day." Such indeed was the fact. Stock jobbing with the shares of the Bank began from the first subscription and was carried on most vigorously by the officers and directors of the Bank.

The second installment was due January 1, 1817. Ten dollars per share would then become due in specie. Specie, however, was then still at six per cent. premium in Philadelphia. At a directors' meeting December 18th, it was voted to make loans on stock in order to facilitate the payment of the specie portion of this second installment. December 27th, other votes were passed, in form restricting these loans somewhat, but really only limiting the advantage to a few. Measures were taken to buy and import specie for the account of the Bank. During the two years, 1817 and 1818, the Bank imported $7,311,750 in specie, at an expense of $525,297. Upon the inquiry which was subsequently made, the bank officers declared that they could not distinguish in their accounts so as to tell how much specie had been paid in at the second installment. The amount of specie in the Bank, in January, 1817, was $1,724,109, which was only $324,109 more than the specie part of the first installment, and the latter sum is therefore the utmost which could have been paid in on the second installment, when it was intended and expected that $2.8 millions would be paid in specie. Checks on the Bank and on other banks which claimed to pay specie, as well as notes of the latter, were taken as equivalent to specie. Everyone who was acquainted with the methods of banking of the time declared that no specie would be added to the stock of the Bank by the second or third installment.* Crawford, in 1820, showed that such was the usual practice in organizing banks. "The reason why a bank of $35 millions could be created in 1816, was simply that there was then a large amount of funded debt of the United States incorporated in the capital, rendering it necessary for the subscribers to raise less than $5,000,000 in specie before the Bank went into operation."†

The measures which had been adopted in the Bank encouraged the stock jobbing. The discounts were not even restrained to the coin part of the second installment, but, in some favored cases, reached the total amount of the first two installments. After February 20th, this became the general rule, although the second installment, in many cases, had not yet been paid. "The discounts, the payment of the second installment, the payment of the price to the owner, the transfer, and the pledge of the stock were, as it is termed, simultaneous acts."‡ At the end of December, 1816, the stock was at 41 7-8 for 30 paid; in April at 81, and in May at 98 for 65 paid; August 20th, at 144 for 100 paid; and August 30th, at 156 1-2, where it stood for a few days.

Some suspicion of the proceedings in the Bank was aroused in the public mind, and strong criticism was provoked. January 6, 1817, Forsyth intro-

* Gouge, Journal of Banking, 284. † 1 Raguet's Register, 163. ‡ Committee of 1819.

duced in the House of Representatives, a resolution of inquiry whether the payment of the specie part of the second installment had been avoided. The Committee on Currency addressed an inquiry to Mr. Lloyd, a director of the Bank, who chanced to be in Washington. He replied, on the 9th, admitting that discounts had been made to facilitate the second payment, but excusing it on the ground that the payments would not otherwise have been made. The only penalty for non-payment was to lose any dividend which might be declared, and this, he said, was not sufficient. In fact, the discounts did not cause the installments to be paid, but enabled the stock to be carried until it could be sold at an advance. The Committee transmitted Lloyd's letter in answer to Forsyth's resolution, whereupon Forsyth introduced another resolution, January 13th, that the bank should not be allowed to go into operation, or to receive public deposits, until the second installment was paid, according to the charter. This resolution was not acted on until the end of the session, when it was indefinitely postponed for want of time, on Forsyth's own motion.

January 30, 1817, the directors of the Bank voted to issue post notes at sixty days for loans granted.

Thus it was that the great Bank, instead of acting as a check to inflation, adopted all the worst methods of bank organization of the time, and joined in the career of inflation. "The Bank did not exercise with sufficient energy the power which it possessed and might have retained, but rather afforded inducements to the State Banks to extend the amount of their circulating notes, and thus increased one of the evils it was intended to correct."* From the very brink of resumption the great Bank carried the whole country back into the slough of inflation and depreciation.

Its notes, being redeemable at any branch, became at once a good and cheap remittance. Boston was then the money market of the country, and the Middle States were in the debtor relation to the East. Notes of the Baltimore branch were advertised for sale at Boston a few days after the branch at the latter place went into operation. The Boston and New York branches were busy redeeming the notes issued by the Baltimore branch, and the parent Bank had to send them continually new supplies of silver. From March, 1817, to December, 1818, $1,622,800 in specie were sent to Boston and $6,293,192 to New York. During the latter half of the year 1818, the sum sent to Boston was small, because treasury drafts were issued to the Baltimore branch on the northern branches, drawing to it the public deposits. First, therefore, the Baltimore branch drew to itself the capital of the Boston branch, and then it drew to itself the public deposits. January 31, 1818, the Baltimore branch owed the other branches $9.5 millions. The silver paid out by the northern branches was shipped to India and China, for which fact the merchants in that trade were denounced as enemies of their country. The banks of Massachusetts resisted the payment of deposits to

* Committee of 1819.

the Bank of the United States, because they held specie paid in by the people of Massachusetts, and wanted the same or their own notes paid out to them. It seemed that the Middle States, which had gone so deeply into the paper system, had now organized a big bank to draw the specie which the Eastern States had kept during the war, giving United States bank notes for it. Here, then, we find that in the East the operation of the Bank was to draw into the paper system this section which had thus far kept out of it. In 1814, the Boston banks had circulation and deposits to the amount of $1.66 for every $1 in specie they possessed; in 1815, $2,07; in 1816, $3.45; in 1817, $4.08; in 1818, $5.78. The ratio then improved until 1821, when it was $2.58.* Silver was at seven per cent. premium in Boston, October 17, 1818.

If we now turn our attention to the Western States, we find that the notes issued by the branches there were obtained on easy credit and remitted East in purchase of commodities. The cashier of the branch at Lexington, Kentucky, being alarmed at this remittance of his notes to be redeemed at Philadelphia, thought best to use the notes of the State banks, and to restrict his own circulation. For this he received a rebuke of extraordinary severity from the president of the parent Bank, who instructed him that his business was to issue and circulate his own notes, and directed him to sell drafts at a low enough rate to hinder the shipment of his notes, and to buy drafts when he could get them. This drew out a remonstrance from Crawford, who warned the Bank that the public, who had been pleased at the apparent success of the Bank in equalizing the exchanges [that is, the improvement of the exchanges up to February 20, 1817], would be very much dissatisfied if it should now appear that the Bank and its branches were about to establish a system of internal exchanges, "without reference to the commercial relation which exists between the two places."† In fact this arrangement made little difference in respect to the operation of the Bank on the western country. The loans were repaid in local notes, which accumulated in the branch until they were presented for redemption; then the silver obtained for them was shipped eastward. At the same time the notes of the United States Bank and the local banks together increased to occupy the space left, and then to become redundant and depreciate.‡ Therefore in this section also the operation of the Bank was mischievous, and we find it drawing into the inflation another section which had not yet taken part in it. In the South it had very much the same effect, although that effect was not developed until somewhat later.§

The Bank had scarcely gone into operation before it began to make difficulties about paying specie for its notes without reference to the place of issue. Jones wrote that it would furnish weapons for its own destruction by so doing. He illustrates this as follows: "During the existence of the late compact between the Bank of the United States and the State banks

* Mass. Senate Doc. No. 38, Feb. 1838. † 4 Folio Finance, 539. ‡ See page 109 and the table, page 140.
§ See page 113.

[that the former would not demand balances of the latter until it had discounted to a certain amount in the large cities], it became necessary to level the exchange from Washington to Boston, whatever might be the cost or hazard of the undertaking, inasmuch as the Bank of the United States had engaged to receive on deposit, and of course to pay in specie, the paper of all the contracting banks, and to permit them to check on each other for the liquidation of the public balances, the payment of which was suspended. The consequence was that each check impaired the value of the debt due to the Bank of the United States by substituting paper less valuable than that of the original debtor. It was soon discovered that this practice was not confined to the liquidation of the public balances, but was made to embrace the current business between the banks of the respective cities. The banks in New York discounted paper payable in Philadelphia, and those in Philadelphia discounted paper payable in New York. The Bank of the United States and its offices were made the instruments to place the amount of these transactions in specie wherever money was most in demand."*

The pretended resumption of 1817 was unreal. It never was accomplished. In 1820, Secretary Crawford said that, for most of the time since resumption, the convertibility of bank notes into specie had been rather nominal than real in the great portion of the Union.

By May, 1817, complaints began to be heard that the resumption was only nominal. May 17th, Niles said: "Though our banks ostensibly pay specie, it is almost as rare as it was some months ago to see a dollar."

The third installment of the capital of the Bank became due July 1st. Little notice was taken of it, and it seems to have been paid much as the subscribers chose. No specie was paid in, although $2.8 millions should now have been paid, according to the charter, and as public stocks had risen above the rates at which they were receivable in the capital, and as the amount of public stocks held by the Bank was subsequently found to be deficient, it appears that a large part of this installment was paid in bank notes or by stock notes. July 25th, the directors voted that the branches might make loans on pledge of Bank stock. August 26th, they voted to make loans on the stock of the Bank at 125, giving as a reason that it had been taken as collateral for loans at that rate in New York. The Committee of 1819 could not find that this was true. An endorser was at first required for the amount above par, but later this was not insisted on. September 30th, the president and cashier were authorized to renew notes discounted on pledges of stock. The president and some of the directors were deeply engaged in the stock jobbing. The former had a very large interest, on which he suffered a loss. The stock began to decline at the end of September, and in December, 1818, was at 110.

October 11, 1817, Niles said: "Though the Bank of the United States and its branches has had a considerable effect to equalize the exchange of

* 4 Folio Finance, 808.

moneys between different places, being assisted in its operation by the natural courses of trade, still the people are inundated with paper called bank notes at almost every depreciated rate, one-half to seventy-five per cent."

The important incidents of the period of inflation, in the banking history of the several States, were as follows:

The Legislature of MASSACHUSETTS, in 1812, tried to reduce the number of banks by refusing to renew the charters which expired in that year. The New England Bank was chartered June 6, 1813. It constituted another attempt to deal with the circulation of the country notes in Boston, on which the discount was then from three per cent. to five per cent. It undertook to send home these foreign bills, as they were called, to the banks which issued them, at the cost of the operation. This rapidly reduced the discount on the country notes. In January, 1814, it sent certain New York bank notes home for redemption to the amount of $138,874. "This silver was put into three wagons, which proceeded on their way hither as far as Chester, 14 miles. There they were seized by order of the Collector of New York, commanded back, and the money deposited in the vaults of the Manhattan Bank, of which he was a director. Though a protest was handed to him against such a course as illegal, by the agent, yet he declined to alter his purpose. He assigned as a reason for this procedure that he suspected such cash was going to Canada. Many this way supposed that he was chiefly actuated by dislike to the frequency with which the New England Bank dispatched large sums of the New York bills, which flooded Massachusetts, to be redeemed with dollars. On being made acquainted with these facts, the General Court resolved that the conduct of the collector in this respect is a violation of his duty and an infringement on the rights of the New England Bank. They also decided to have the matter laid before the President of the United States, with the expression of their judgment, that the collector had committed an outrage on one of their corporations, ought to relinquish the deposit, and be dismissed from his office. Such application so far succeeded as to have the money restored."*

During the war, the banks would not lend to the State, at the risk of increasing their issues. February 6, 1816, an act was passed to compel them to do so when necessity might arise. In the summer of that year, the Dedham Bank issued a quantity of paper in the form of drafts on a bank at Middletown, Connecticut, payable to bearer, which led to an act of December 13, 1816, which enacted that all the notes and obligations of banking institutions should be payable in specie at their own counters. The Court in King *vs.* the Dedham Bank,† held that this law was void as to issues made before its passage. Before that, therefore, these Massachusetts banks had been able to issue drafts which were used as currency. In 1817, notes for less than $1 became very abundant. They were forbidden February 3, 1818.

* Felt, 218.

† 15 Massachusetts, 447.

NEW YORK.—Credit notes, by their tenor only receivable by a bank for dues to itself, were, by a law of 1816, made recoverable in money, and banks were forbidden to issue any notes payable otherwise than in money.

The law of this State forbade any unauthorized association to issue notes. In 1818, this prohibition was extended to persons, and both persons and associations were forbidden to do any kind of banking unless chartered so to do. Jacob Barker's Exchange Bank was excepted for three years. The act was called for on account of the mass of fractional notes which had been issued by all kinds of persons and corporations.

PENNSYLVANIA.—At the session of 1812 and 1813, twenty-five banks were chartered by the Legislature in one bill. The total capital was $9,525,000. The bill passed both Houses by a majority of only one vote in each and was vetoed by the Governor. "At the following session the subject was renewed with increased ardor and a bill authorizing the incorporation of forty-one banking institutions, with capitals amounting to upwards of $17 millions was passed by a large majority." It was vetoed by the Governor, but passed by the constitutional majority and became a law March 21, 1814. Under it thirty-seven banks were organized; four of them in Philadelphia.*

VIRGINIA.—The Bank of Virginia and the Farmers' Bank were authorized October 19, 1814, to issue one's, two's and three's, but not to increase their total circulation, until six months after the peace.

February 19, 1816, perhaps with some reference to the incident narrated on page 70, provision was made by law for suits against corporations including banks, and for writs of execution against them; service to be on the chief officers; levy might be made on the current money as well as on the goods and chattels. February 23d, a summary proceeding was provided against any bank which did not pay specie after the 15th of the following November, six per cent. interest being imposed and a levy on property of the bank anywhere in the State being authorized. This remedy was not given to any bank or its agent. This appeared to commit Virginia to a resolute policy of resumption; but on November 14th following, this act was suspended for a month, and then for six months, although banks which did not pay specie for their notes under $1 after January 10, 1817, were excepted from the indulgence.

All unchartered banks were made illegal, February 24, 1816. If any such issued notes, the officers and partners were liable to fine. Such notes were null and void. The fine for signing was threefold the amount of notes signed. Such a company could not recover in any court in the State. Such illegal notes under $1 being in circulation, the holder of one of them may recover $5 from the issuer or signer. November 15th, this act was suspended as to ten enumerated companies and banks until August 31, 1817, in order to give them more time to wind up. On the following day this extension was granted for four more.

* Raguet's Report on the Distress. Senate of Pennsylvania, 1820.

January 5, 1816 a long report on banks, resumption, etc., was presented to the House of Delegates. It ended with a proposition to establish fourteen banks in various counties up and down the State.* This committee stated that, before the war, the notes of eastern banks were at a premium of two or three per cent. in the West. During the war those of the western banks came to bear about the same premium in the East. Since the war the former state of things had returned. This no doubt refers especially to Virginia and Kentucky, and it may be only a reminiscence of the effects of the rising tide of inflation in the two sections at different times.

The Northwestern Bank of Virginia was chartered February 5, 1817, at Wheeling; capital not less than $400,000 nor more than $600,000; to be paid in in coin. A peculiar provision was here introduced that 15 per cent. of the capital should be created in additional stock to be given to the State as a fund for internal improvements. It was to be paid for "by charging an equal proportion of the amount thereof on each share disposed of to subscribers." This amount was to be paid in in thirty semi-annual installments, the first one on the day of the first dividend, out of which such installment was to be retained, if the dividend sufficed for it; if not, the shares were to be assessed and any stockholder who did not pay the assessment was to forfeit his stock. Three branches were provided for. It was to last until 1834. Evidently the payment to be made by each stockholder on his stock, in order to pay for that given to the State, was one-half of one per cent. each six months, which was to come out of his dividend if it exceeded that amount. This bank was to make no loan for longer than 120 days; to issue no notes under $5; and to have three State directors. In the same act the Bank of the Valley in Virginia was chartered with similar details throughout. The State might sell its stock in each at will, and 15 per cent. penalty was imposed, with forfeiture of the charter, for failure to redeem.

The complaints about the unauthorized note issuers came up again in 1820, for they continued their operations. New penalties were imposed, including imprisonment from one to twelve months for individuals, and a fine of $50 on corporations. A fine between $10 and $100 was imposed on bringing such notes into the State with intent to circulate them, and a fine of $10 for offering to pay or pass them.

The Northwestern Bank did not pay the contributions to the State stock promptly. Therefore an act of January 7, 1822, provided that the notes of the Northwestern Bank and the Valley Bank should be receivable for taxes as long as they pay specie, and if the former pays up its arrears on the State stock. The charter of the Farmers' Bank was extended March 6, 1824, for fifteen years, and it was brought under the same law of penalty for suspension, etc., as the Northwestern Bank. A bonus of $50,000 was exacted for internal improvements, which sum must be paid out of dividends on the stock not owned by the State.

* 9 Niles, Supp. 155.

NORTH CAROLINA.—The charter of the Banks of Cape Fear and Newbern were extended, in 1814, until 1835; the capital of the former might be increased $525,000; that of the latter, $575,000. Each bank was bound to lend to the State not more than one-tenth of its capital at not more than six per cent. An option was reserved for the State on 1,000 shares in each, of which 180 shares were to be given to the State as a bonus, and the State might pay for the 410 shares with its own treasury notes. The remaining 410 shares were to be paid for at the convenience of the State. The debts of either bank might not exceed all cash deposits by more than $2,400,000. The State paper was not to be a legal tender to either of these banks, but only to the Bank of the State after January 1, 1816. No notes were to be issued under $1. Treasury notes were to be issued for the sum of $82,000 in denominations of five cents, ten cents, twenty cents, etc., all of which were to be paid over to the two banks in payment of the first installment ($10 per share) on 410 shares in each. They were to bear no interest; were to be issued by the banks and redeemed by the Treasurer; to be re-issued by him. If the Bank of the State should be voluntarily dissolved before December 18, 1816, these banks were to take up the State paper with their own paper, at the rate of $1 for 10 shillings. If this was done, the Governor was to proclaim that the State notes were not a legal tender, except to these banks until their charters expire, after which, if State notes are still out, they were to be legal tender again; but the dividends on the stock owned by the State were to be employed in redeeming them.

A Committee of the Legislature in 1828-9 reported, in regard to the banks of Cape Fear and Newbern, that the increase of their capital in 1814 was paid for by stock notes of favored individuals. "It follows that the whole amount of the interest drawn from the people on the loans made on this fictitious capital was a foul and illegal extortion. * * * Taking the issues made on this fabricated capital, to be in proportion with those made on the former capital, they must have put into circulation on the faith of the assumed stock, between $3 millions and $4 millions of notes, and thus a parcel of individuals under the name of stockholders, but who in fact held no stock, contrived to exchange their notes without interest to the amount of $3 millions or $4 millions for the notes of the people bearing an interest of more than six per cent., and while the property of the people was pledged for the payment of the notes they had given *to* the stockholders, there was not a dollar or an atom of property pledged to them for the payment of the notes they had received *from* the stockholders." *

This State passed a law against due bills and small promissory notes in 1816, declaring that the abuse was increasing and was very detrimental to the true interests of the State. It appears that schools and academies were making such issues. "It shall not be lawful for any person or persons to pass or receive any check or checks drawn for less than $1 on the State

* See pages 45, 176.

Bank, the Banks of Newbern or Cape Fear, or the various branches or agencies thereof, for the benefit of any academy, school, or corporation, or company of private citizens, or any check or checks drawn on any person or persons whatever." The penalty was £10, half to the prosecutor. Issuing notes without authority was punishable with a fine of £100 and imprisonment for six months. At the same session so much of an act to incorporate a school, and of another act to incorporate a manufacturing company, as might by construction authorize either of them to issue notes was repealed. If they did not pay on demand, the holder might recover, as the law expresses it, 100 per cent. on the principal sum. An alteration was also made in the charter of the Bank of the State, providing that the Treasurer should cause $80,000 to be printed in treasury notes, in denominations from five cents to seventy-five cents, redeemable and re-issuable by the Treasurer, to be in part payment of the debt of the State to the bank.

In regard to the Bank of the State, the committee of 1828-9 said that: In 1818, the proportion between its notes and circulation, was one to twelve; in that year $424,000 of stock unsold was sold for their own notes, in order to reduce the amount of them. This the committee calls a "scribbling process." While this operation was pending, the three banks entered into a formal agreement, July, 1819, not to pay specie, and their notes fell at once to 85. Up to this time there had been inflation and prosperity. "A scene of extortion and usury ensued which has no parallel in the annals of avarice; the strange spectacle of moneyed institutions exacting specie in exchange for their notes, which they themselves refused to redeem with specie."

SOUTH CAROLINA.—The Bank of the State of South Carolina was chartered, December 19, 1812, as a measure of relief after the sufferings from the embargo,* and the preamble of the charter stated that it was "deemed expedient and beneficial, both to the State and the citizens thereof, to establish a bank on the funds of the State, for the purpose of discounting paper and making loans for longer periods than have heretofore been customary, and on security different from what has hitherto been required." All stock of the United States, loan office bonds, bank shares, and credits belonging to the State are to be put in this bank, and the faith of the State is pledged to make good any deficiencies; public deposits to be placed in it; to lend on two-name paper and on real and personal property, the borrower giving power of attorney to confess judgment; no loan to run more than a year; no renewal to be granted unless the next year's interest is paid in advance; no loan to one person to exceed $2,000; one-tenth of each loan to be called in in each year; prompt execution to be enforced against defaulters; the Legislature to elect a president and twelve directors; to issue no note under $1; to be called the Bank of the State of South Carolina; to be situated at Charleston, with a branch at Columbia. The loans on mortgage were to be apportioned between the election districts; all stock owned by the State in

* Report of the Bank, 1841.

other banks might be sold and the proceeds turned into this one. The State might issue $300,000 of six per cent. stock, the proceeds to go into the funds of this bank. The notes were to be receivable by the State. Five commissioners were to be appointed in each district to appraise the lands on which loans were wanted. In an explanatory act, a year later, it was enacted that no other bank should issue notes under $5, which gave this bank a monopoly of small notes. December 21, 1814, the Bank of the State was required to issue notes under $1, and no one but the chartered banks was to be allowed to issue circulating paper. The city of Charleston was given until January 1, 1816, to call in its bills of credit. The Bank of the State was authorized to deal in inland exchange, December 15, 1815. At this time, also, the connection of the State with the old "State Bank" was dissolved, except by virtue of the stock which it still held. The Bank of the State was charged, December 17, 1816, with the liquidation of the old loan office of the State, which was still dragging along a load of bad debts. It was to sell the land which had been mortgaged to that office, but was not to call up in any one year more than one-third of the debt. The effect of the war finance is seen in an act of December 17, 1817, that all the banks in the State may invest not over half their capital in stocks of the State or the United States.

In 1819, October 1st, the directors of the Bank of the State of South Carolina published an anti-bullionist argument against resumption. It did not resume until 1823. The United States Bank at Charleston used its paper.*

GEORGIA.—The Bank of the State of Georgia was chartered December 16, 1815, with a capital of $1,500,000, $600,000 of which was to be reserved for the State until January 1, 1817; the State to appoint six out of fifteen directors; to organize when $250,000 in specie paid in; the circulation never to exceed three times the capital; to last until 1835. The Governor was at once authorized to act upon the right reserved to the State. He was to make the subscription as well as he could, so as to give the next Legislature a chance to appropriate for it. The Governor in his message of 1816, tells how this bank was organized. It was forbidden to go into operation until $250,000 were on hand in specie. The State had to come forward and subscribe the requisite amount from its own part of the capital. This it did in notes of the Augusta and Planters' Banks. Instead of presenting these for redemption, the Governor entered into a negotiation with those banks to "advance" the specie on "a deposit of their own notes." No doubt therefore this bank was organized after the fashion of others at the time, by borrowing specie long enough to defeat the law.†

December 18, 1816, the Governor was ordered to assign to the branch of the Bank of the State at Milledgeville a room in the State-house, to be used as its banking office. December 19th, it was enacted that no unincorporated association should thereafter issue a note for $2 and above. In case

* Gouge, Journal of Banking, 334.

† 11 Niles, 233.

of violation, the holder might recover one hundred and twenty-five per cent. of the note. If any one but an incorporated bank should issue notes for less than $2, the noteholder might recover three times the value. Twenty per cent. tax was laid on such unauthorized notes already in circulation. The banks of Georgia were ordered to resume when the Bank of the United States and the banks of the neighboring States should begin specie payment. After that time, any noteholder might recover twenty-five per cent. until the notes were paid in specie. Two years later another very stringent act was passed against unlicensed banking.

The Bank of Darien began a very checkered career December 15, 1818. Its capital was to be $1,000,000, half of which was reserved for the State until January 1, 1820. It was to last until 1837, and its charter was to be forfeited if it did not pay specie on demand.

CHAPTER VI.

Inflation in the Mississippi Valley.



THE inflation in the Mississippi Valley began at the end of 1815. The president of the Bank of the United States stated to the Committee of 1819 that when the Bank stock was subscribed, specie was at six per cent. premium in the West, and at fourteen per cent. premium at New York, Philadelphia and Baltimore. The inflation advanced rapidly during 1816 in Kentucky and Tennessee, and spread in that and the following years to Indiana, Illinois and Missouri.

Kentucky.—The popular party had now fallen under the dominion of a mania for banks, as the institutions which could make everybody rich. Clamorous demands were made for a share in the blessings which the Bank of the United States was expected to shower upon the country, and two branches were established as soon as the Bank was organized—one at Lexington and one at Louisville. Prices immediately began to rise, specie was exported, and contracts were entered into in the expectation of further advance. All hastened to get into debt, especially for the purchase of land, which, in a country of new settlement, always offers a tempting chance for those who have already settled to make profits out of the new comers. "Deeds in old books of record show the to us astonishing fact that town lots on the back streets of the suburbs of Shepherdsville brought prices on time that would now [1882] be esteemed great for the best property in Louisville. * * * Every salt lick and sulphur well was marked as a fountain of prospective wealth, and eagerly bargained for at astonishing values. * * * The most active speculators were those whose means were small."*

February 4, 1815, the capital of the Bank of Kentucky was increased to $2 milllons, half the increase to be taken by the State. The bank and branches might deal in exchange, United States treasury notes and bonds, and might lend to non-residents and to the United States not more than $500,000 for not more than two years. There were two significant features

* J. M. Brown in the report of the first annual meeting of the Kentucky Bar Association.

in this law. First, it tried to construe more strictly the limit set by the original charter on the amount of loans which a director might have; and second, it enacted that the notes of the bank and its branches should be current at all branches and receivable for debts to them all. This bank suspended in 1815, as we learn from resolutions of the Legislature, approving of that action.* A committee of the Legislature examined the bank, and its report was printed, with a letter of the president, giving the reasons for suspension. We have a statement of the condition of this bank in February, 1817, according to which it had a capital of $2 millions, loans $4 millions, cash deposits $1.3 millions, circulation $1.9 millions, cash $1.2 millions.†

The circulation of notes by persons or associations not authorized by law was forbidden January 28, 1817, under a penalty of ten times the amount. Every one who passed such a note was required to endorse it, and was liable to the same penalty. The law was not applicable to notes over $2, and was limited to February 1, 1818.

The State was not able to take the shares in the Bank of Kentucky which had been reserved for it. It was ordered, February 3, 1817, that the same should be sold for not less than 102, in order to increase the active capital. By the same act, the limitation on loans to directors was relaxed in respect to bills of exchange created by the exportation of products of the State; but this was not to be construed to warrant dealing in bills "founded on a speculative system of acceptances." The obligation to receive all notes at all branches was also limited to the payment of debts to the bank.

January 26, 1818, the act was passed which stood first amongst the great and fateful acts of legislation of this period of infatuation. At first twenty-four banks were established at the more important points up and down the State, with an aggregate capital of $5,870,000; then the act starts off again and provides for four more with a total capital of $400,000; then twelve more are provided for, with a total capital of $1,650,000, so that there were forty in all with $8 millions of capital. The capital was to be paid in in current money, notes of the Bank of the United States, or of the Bank of Kentucky, in five installments. The president and directors might extend the time for the three last installments as they should see fit. The banks were incorporated until 1837; were to begin when one-fifth of the capital was paid in; were never to owe, exclusive of deposits, more than three times the capital; to pay the State one-half of one per cent. on each share annually; and any one of them was to cease to exist if it did not redeem its issues in specie, United States Bank notes, or Bank of Kentucky notes. Any bank whose stock was not sold within eighteen months was not to be organized. February 3d, a supplementary act was passed, providing for six more banks which seem to have been forgotten, with a capital of $9 millions. On the same day with the last act, the corporate powers of the old Kentucky Insurance Company were extended for two years in order to wind up. It was forbidden to issue notes after January 1, 1818.

* Session Laws of 1814–15, 447. † 11 Niles, 432.

TENNESSEE.—The neighboring States were also now well started on the road of inflation. The State Bank of Tennessee was authorized to issue notes down to $1, by an act of October 3, 1815. November 17th three banks were incorporated, each with a capital of $200,000, of which $15,000 was subscribed by the State. November 26th, the Bank of the State and Nashville Bank were authorized to unite and to absorb either of the others. The Bank of Nashville had suspended in July or August, in connection with the suspensions in the East.*

In 1815, OHIO commenced a war which she carried on longer and more vigorously, because apparently with less success, than any other State, against unauthorized bank notes. She also tried to impose taxation on her banks, and her first steps in this direction are especially noteworthy because they show that her attempt to tax the Bank of the United States, a few years later, was not an isolated act against that Bank. February 10, 1815, it was enacted that every banking company in the State should pay annually four per cent. on its dividends. If any bank failed to report, the Auditor was to levy one per cent. on the nominal capital of the bank. The Sheriff was to present the bill of the Auditor to the bank and if it was not paid at once, with four per cent. additional for the Sheriff's fees, he was to levy on the specie and notes. If he could not obtain enough of these, he was to seize any other property of the bank, advertise, and sell it. All contracts with persons or firms issuing notes, without being authorized by law so to do, were to be void. Signing or issuing such notes was made punishable by imprisonment for one year and a fine not exceeding $5,000. The act was not to affect unincorporated banks which began before January 1, 1815, until after January 1, 1818.

February 14th, the Governor was authorized to borrow of the banks $155,000 for one year, at six per cent., in order to make up the State's quota of the direct tax.

At the next session another war was begun against persons acting as agents of any bank of issue chartered by the laws of another State. A law of January 27, 1816, imposed a fine of $1,000 for each offense. The use of the Courts and of the processes of justice were forbidden to all such agencies. Any one interested in such a bank was made personally liable to any note-holder. Such banks or agencies were allowed until January 1, 1817, to wind up, and a half dozen banks which were named were allowed to go on one year longer. February 23d, six banks were incorporated in one act, each to have a capital of $100,000, and to last until 1843. Seven of the unincorporated companies with which the State had been at war were also incorporated by the same act. Each bank was to "set off" to the State one share in twenty-five before beginning, and so afterwards for any increase. The certificates for these shares were to go to the Auditor, and they were to draw dividends like the others. Each bank was to save from its profits a

* 8 Niles, 436

sum which at the expiration of the charter would pay to the State the capital value of shares so set off to it. The State was to re-invest the dividends from each bank in shares of that bank, until it should own one-sixth of the capital. The bank, if necessary, was to make new shares to meet this provision. All former charters were extended to 1843, if the banks should respectively accept this act. When the State should own one-sixth of a bank, the dividends were to go into the available revenue of the treasury. Banks which came into this scheme were not to be taxed. Any bank which violated it was to forfeit its charter. The act was to be construed "benignly and favorably." For some years afterwards this act was treated as a general banking law.

In 1816 and 1817 bank charters were rapidly multiplied. In that of the Bank of Hamilton it is first provided that the capital shall be paid up in "money of the United States;" in that of Galipolis it is first provided that the Governor shall send a commissioner to see that $20,000 is actually in hand, half in specie and half in United States Bank notes, before it may begin.

The Farmers' and Mechanics' Bank of INDIANA was incorporated September 6, 1814, and the Bank of Vincennes, September 10th. The following mysterious paragraph from a law of December 26, 1815, seems to show that the Territory was infested by persons who were issuing notes without authority. "If any person or persons in this Territory shall sign, issue, pass, exchange, or circulate any due bill, promissory note, bank note, or instrument of writing for the payment of any money or property, or performance of any covenant or contract, purporting to be the act of any bank, company, secret society, or set of men in this Territory other than is or are expressed by name, upon the face of such due bill, promissory note, bank note, or instrument of writing, so as to gain a credit and trust in some unknown person, company, or set of men, to the holder of such note, due bill, or instrument of writing, besides the signer or signers thereof," he shall be fined three times the sum in the note and be liable to the noteholder for the amount. This is not to affect any bank chartered by this Territory, and any one may recover what he can in payment of "bank notes of any secret company or set of men" or of any other paper; but it applies to the bank notes of the Indiana Manufacturing Company at Lexington, Indiana. Passing any counterfeit bank note knowingly was to be punished by a fine of three times the value, and twenty-five to fifty lashes on his or her bare back.

The Bank of Vincennes was adopted as the State Bank of Indiana, until October 1, 1835, by a law of January 1, 1817. An additional capital of $1 million was to be raised, of which $375,000 was reserved for the State. Arrangements were made for receiving subscriptions all over the State. Branches were to be established. The Farmers' and Mechanics' Bank might become a branch. Three State directors were to be elected by the Legislature, and a greater number when the State should subscribe more, but never more than five out of fifteen. The greatest amount which it might be called upon to lend the State was $50,000 for five years. No director might borrow more

than $5,000 at one time, or have endorsements in the bank for more than $10,000. December 31st, the State renounced its right to subscribe 2,500 shares in the Farmers' and Mechanics' Bank.

Before the war of 1812 money was scarcely ever seen in ILLINOIS, the skins of animals supplying its place. The money which was brought in after the war turned the heads of the people so that by 1819 the whole country was in a rage for speculation.* At that period "the country was flooded with bank notes, good, bad, and indifferent. Many counterfeit notes were in circulation.†

The custom was to make contracts in "trade at trade rates," which was a system of barter, and displaced money just as it had done in the colonies. Factory goods from New England and Kentucky reached that region about 1818, and the domestic textile industry ceased.‡ Until 1833 there was no legal limit to the rate of interest. The common rate by contract was about 50 per cent.§ A law of the Territory, January 11, 1816, imposed very heavy penalties on counterfeiting, a peculiar feature being that the law applied whether the bank whose notes were counterfeited was in existence or not. December 28, 1816, the Bank of Illinois at Shawneetown was incorporated, with a capital of $300,000, of which the State might take one-third; to last until 1837. It was never to suspend under a penalty of 12 per cent. It is said of it in its earlier period that it was "so well managed that neither the government nor any one else lost by it."‖ The Bank of Kaskaskia was incorporated by the Legislative Council of the Territory January 9, 1818. Its capital was $300,000. It was to begin when $50,000 were subscribed and $10,000 paid in, and to last until 1838. On the same day the Bank of Edwardsville was incorporated with a capital of $300,000, of which one-third might be taken by the State. It was to begin when $10,000 were paid in. Upon subscription, $5 were to be paid in in specie or "bank bills which will command the same." It was to last until 1838. In the charters which were framed on the model of that of the Bank of the United States, the provision that the debts, exclusive of deposits, should never exceed a certain amount, presents a great number of variations. Apparently it was often not understood. In this charter the clause reads that the debts "shall not exceed twice the amount of their capital stock actually paid over, and above the moneys then actually deposited in the bank for safe keeping." It was never to suspend under a 12 per cent. penalty.

On the same day the city and Bank of Cairo were also incorporated. The owners of the point of land at the junction of the rivers are named, and their opinion is recorded that "no position in the whole extent of these western States is better calculated as respects commercial advantages, and local supplies, for a great and important city;" but the inundations are a drawback and dykes are needed. The proprietors desire to devote one-third of the proceeds of land sales to dykes, etc., and two-thirds to banking. They

* Ford; Illinois, 43. † Reynolds; Illinois, 113. ‡ Reynolds, 44.
§ Ford, 232. ‖ Edward's Edwards, 165.

are incorporated by this act, as the president, directors, and company of the Bank of Cairo, for thirty years. Streets and lots are to be laid out and the price of the latter is limited to $150 each. Of this sum, one-third is set apart for a fund for the improvement of the city, and the other two-thirds goes into the capital of the bank, half of it belonging to the purchaser and half to the company. The bank is to be organized when 500 lots are sold, payment being due in three installments within six months. The bank is to be at Kaskaskia and the lots are to be distributed "by lottery." The debts over the specie paid into the bank are never to exceed twice the paid up capital. The capital of the bank is never to exceed $500,000, and it is never to suspend under a penalty of 12 per cent.

A Bank of the State of Illinois was incorporated March 22, 1819, but the charter was immediately repealed and no action was taken under it.

The public lands were sold at this time at $2 per acre, $80 to be paid on a quarter section at the time of purchase, with a credit of five years for the remainder. It was expected that the rapid settlement of the country would enable sales to be made at an advance before the expiration of the credit. The system therefore stimulated speculation, and everybody in the Territory was jobbing in land. From 1814 to 1818 we have the testimony of a man who was engaged in it that the most profitable business was the commerce in land. The country was rapidly improving; immigration was flowing in; "bank paper was circulating in great abundance."* In the next two years the tide of immigration declined and an act of Congress of April 24, 1820, abolished credit for land after July 1st. Before any purchaser could enter land, he must produce to the register of the land office a receipt from the receiver of public moneys of the district for the amount of the purchase money. At that time $22 millions were due the Treasurer of the United States for land bought on credit. The transactions in the land office, during the speculation, stimulated the issues of the banks, and the government was parting with the lands in return for a credit in these banks which was almost entirely unavailable. We find the president of the Shawneetown Bank writing to Ninian Edwards, May 25, 1819, that the receiver at Kaskaskia takes his notes one day and refuses them the next. The Bank of Missouri is as bad or worse. It lately took $12,000 in specie from his bank. The public deposits give the Bank of Missouri great strength, which it abuses. He expresses sympathy with the Bank of Edwardsville.† These banks being all engaged in the same operations, and all equally frail, never dared press upon each other; but whenever the Treasury, or a deposit bank, or the Bank of the United States, drew upon them for their debt to the United States, the whole combination must fall like a card house.

* Reynolds, 110.

† Edwards Papers, 156.

CHAPTER VII.

The Crisis on the Atlantic Coast.

THE Bank of the United States, in its internal administration, was found to be approaching a crisis in July, 1818.* On the 20th, the directors ordered a reduction of discounts at Philadelphia, Baltimore, Richmond, and Norfolk, to the aggregate amount of $5 millions. Amongst the reasons given, the delinquency of the State banks in paying their balances is one of the foremost. October 30th, a report was made to the directors that these reductions had been only partially carried out.

The Bank resolved to insist upon further reductions, to get specie from abroad, silver being then at ten per cent. premium, and rapidly exported, and to draw $550,000 in specie from the West. The local currencies being now very unequal again and the Bank itself falling into distress, the task of equalizing the currencies was given up. August 28th, it was resolved to take no branch notes save at the branch which issued them; but the use of branch drafts was extended, with the same effect. They led to the device of drawing and re-drawing between the branches what were called "race horse bills," which combined the qualities of accommodation paper and endless renewals. They tended to draw the capital of the Bank away from the sounder and more conservative branches to the weaker and more reckless ones.

The directors ordered, October 20th, that all discounts on stock above par should be reduced, as to that excess, 25 per cent. every sixty days, and that in the meantime collaterals should be demanded for the excess. Nevertheless, on the 6th November, another vote was passed in the interests of stock jobbing, which allowed the president and cashier to accept the note and hypothecation of the buyer in place of those of the seller. During November and December, the discounts were greatly reduced.

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* In the history of the Bank, which is here given, we follow the report of 1819 and Cheves's report of 1822, presenting the internal history of the Bank in its chronological position, although it must be remembered that the facts were not known to the public until those reports were published.

It appears that there was a scheme on foot for an irredeemable government issue.* Niles became convinced that there was such a scheme, and in the following April he said: "To speak plainly, let who be offended that may, let any power be exerted against us that can, we express an entire conviction of the belief that certain great proprietors of the stock of the Bank of the United States, with other speculators having a powerful influence on money affairs, aided perhaps by certain officers of government, are enrolled for a common exertion to bring about a suspension of specie payment by the establishment of a paper medium." Such a national currency of paper he called "the consummation of evils." December 7th, a meeting was held in Philadelphia, Matthew Carey in the chair, which appointed a committee to draft a memorial to prohibit the exportation of specie. It fell through and nothing was done, but a resolution to that effect was introduced in the Senate.†

January 13, 1818, the Bank petitioned for an amendment to the charter to relieve the president and cashier from the labor of signing the notes. This was not granted because, as the session went on, more and more dissatisfaction was felt with the action of the Bank, and the growing disorder of the currency. The Senate passed a resolution, April 15th, that the Secretary of the Treasury should inquire and report at the next session in what manner the installments had been paid. Numerous other propositions for investigating the Bank were made, but they came to nothing. The one just mentioned produced little result, for the Secretary replied, in December, by simply enclosing a letter from Jones, the president of the Bank, which contained little information.

Spencer of New York introduced a resolution, in the House of Representatives, November 25, 1818, for a Committee to investigate the Bank and learn whether it had violated its charter. Such a Committee was appointed, and at once entered on an energetic investigation. It reported, January 16th, giving a history and criticism of the Bank, and laying before Congress a mass of documents and statistics which embodied the results of the investigation as to the facts. The Committee found that the charter had been violated in four points: 1.—The Bank, having sold $2 millions of public stocks in England in order to buy specie, and the Secretary of the Treasury desiring to redeem the stocks, the Bank had bought in the market and delivered to him that amount at a loss of $54,264, rather than disturb the arrangement in England.‡ 2.—The installments had not been paid as the charter provided that they should be. 3.—Dividends had been paid to stockholders who had not paid the installments on their shares. This was forbidden by the charter. 4.—Persons had been allowed to cast over thirty votes each by the device of proxies. The Committee proposed no legislation except an act requiring that any person who offered over thirty votes at an election in the

* See Niles, October 3d, and November 7th. Perhaps his exposure of it helped to frustrate it.
† Gouge; Journal of Banking, 288.
‡ See page 104.

Bank should make oath that he was not the owner of the shares. Such an act was passed March 3, 1819.

Spencer proposed resolutions to withdraw the public deposits from the Bank, to refuse to receive its notes at the Treasury, and to order the Attorney-general to cause a *scire facias* to be issued for the revocation of the charter, unless the Bank should, before July 1st, accept twelve important amendments of it. Various other propositions of greater severity and more peremptory action against the Bank were proposed, but they all failed to pass. The opponents of the Bank claimed that over forty members of Congress were stockholders, and that a far greater number were interested on the side of the Bank.

At a stockholders' meeting in November, a committee recommended that the branches should be diminished in number, as the advantage of the Bank might require. In the following spring, J. Q. Adams expressed the opinion that the government was the party most interested in the continuance of the Bank and that the interest of the stockholders would be to surrender the charter.*

On the receipt, in Philadelphia, of the report of Spencer's committee, William Jones, the president of the Bank, "fled in affright from the institution."† Langdon Cheves of South Carolina was elected president March 6, 1819. In September, 1822, he laid before the stockholders at their triennial meeting an exposition of the state of the Bank as he found it, and a history of the steps by which he restored it. "It was not" he says, "until the moment I was about to commence my journey to Philadelphia, that I was apprised by a friend, who had been a member of the preceding Board, that he feared that, in a few months the Bank would be obliged to stop payment." "In Philadelphia it was generally expected." Curtailments were at once ordered everywhere except at New York and Boston, where there was no room for them, but the branches at those places were obliged to reduce their business, being overwhelmed by the issues of the South and West which were not restrained. "The debt due in Kentucky and Ohio, instead of being reduced, was within this period [winter of 1818-9] actually increased upwards of half a million of dollars."

At the parent bank "all the funded debt which was salable had been disposed of and the proceeds exhausted. The specie in the vaults at the close of the day on the 1st of April, 1819, was only $126,745, and the Bank owed to the city banks, deducting balances due to it, an aggregate balance of $79,125. It is true there were in the mint $267,978, and *in transitu* from Kentucky and Ohio overland $250,000, but the Treasury dividends were payable on that day to the amount of nearly $500,000 and there remained at the close of the day more than one-half of the sum subject to draft, and the greater part, even of the sum which had been drawn during the day remained a charge upon the Bank in the shape of temporary deposits which were

* 5 Adams Diary, 39.

† Gouge; Journal of Banking, 299.

almost immediately withdrawn. Accordingly, on the 12th of the same month the Bank had in its vaults but $71,522, and owed to the city banks a balance of $196,418, exceeding the specie in its vaults $124,895. It must be again remarked that it had yet the sum before mentioned in the mint as well as the sum *in transitu* from Ohio and Kentucky. This last sum, $250,000, arrived very seasonably on the next day or a day or two after. The Bank in this situation, the office at New York was little better and the office at Boston a great deal worse. At the same time the Bank owed to Baring Brothers & Co. and to Thomas Wilson & Co. nearly $900,000 which it was bound to pay immediately, and which was equivalent to a charge upon its vaults to that amount. It had, including the notes of the offices, a circulation of $6 millions to meet." "In the office at Baltimore, of which James A. Buchanan was president and J. W. McCulloch was cashier, there were nearly three millions of dollars discounted or appropriated without any authority, and without the knowledge of the Board of the office, or that of the parent Bank. S. Smith and Buchanan, of which firm J. A. Buchanan was a member, James W. McCulloch, and George Williams (the latter a member of the parent Board by the appointment of the government) had obtained of the parent Bank discounts in the regular and accustomed manner to the amount of $1,957,700 on a pledge of 18,290 shares of stock of the Bank. These men, without the knowledge of either Board, and contrary to the resolve and orders of the parent Bank, took out of the office at Baltimore under the pretense of securing it by pledging the surplus value of the stock already pledged at the parent Bank for its par value and more, and other like surpluses over which the Bank had no control, the sum of $1,540,000. * * * When this stupendous fraud was discovered, attempts were immediately made to obtain security, and it was nominally obtained to the amount of $900,000. It was probably really worth $500,000. * * * The losses sustained at the office in Baltimore alone, the great mass of which grew out of this fraud, and others connected with it, have been estimated at the immense sum of $1,671,221. The aggregate of the losses of the institution growing out of the operations which preceded the 6th of March, 1819, exceed considerably $3.5 millions. The dividends during the same time amount to $4,410,000. Of this sum, $1,348,-558 were received as the interest on the public debt held by the Bank, which leaves as the entire profits on all the operations of banking the sum of $3,061,441, which is less by at least half a million of dollars than the losses sustained on the same business."

Of the measures taken by himself he says: "The southern and western offices were immediately directed not to issue their notes and the Bank ceased to purchase and collect exchange on the South and West. * * * A correspondence with the Secretary of the Treasury was commenced entreating his forbearance and his aid." This correspondence was personal, and does not seem to have been published except in the appendix to Cheves's report of 1822. He made known to the Secretary the position of the Bank, and asked that notice should be given in advance of Treasury drafts, and also infor-

mation of probable disbursements at designated places. He also asked for the use of a ship of war to bring specie from the West Indies, and for advance information of intention to pay the Louisiana debt. The Bank had three grievances: 1.—The receipt of notes for duties issued by other branches than the one at the place of receipt. 2.—The obligation to pay Treasury drafts on demand at any place. 3.—That debentures must be paid in coin while duties were received in notes. His counsel had advised him that the Treasury was obliged by law to receive any notes of the Bank at any place. Crawford assented to all his requests, and expressed the opinion that there must be either a great bank contraction or suspension, and that the Bank would be obliged to retire nearly all its circulation. Cheves thought that the Bank had too many branches and that its greatest difficulty was that it had not competent officers.

In April the directors passed a resolution to inform the Secretary that the Bank could not engage to meet the Treasury drafts without notice at other points than those at which the revenue was received or the notes were payable.*

By continuing the curtailments, restraining the southern and western branches, collecting bank balances, demanding time for the transfer of government funds, paying debentures in the same currency in which duties were paid, and obtaining a loan in Europe of $2.5 millions, Cheves claimed to have "lifted the Bank, in the short space of seventy days, from the extreme prostration which has been described, to a state of safety and even some degree of power." The Dividend Committee, in 1822, found that the aggregate of the losses was $3,743,899.

The steps which Cheves took to draw the Bank back from the verge of bankruptcy precipitated a panic out of doors. They were resisted and criticised by the opponents of the paper money system as much as by others. Niles strongly denounced the contraction. "A policy directly opposite to that of the original makers of the Bank was speedily adopted and was still persevered in. It now issues none of its own notes. Present pecuniary profit is sacrificed to concentrate a power to command it hereafter; to regulate the transactions of individuals; to govern the money matters of the nation; to elect Presidents of the United States and enact laws for the government of the people."† "What is the secret motive of the present proceedings of the Bank of the United States is not yet clear to us. It is possible it may grow out of its necessities from the losses and difficulties which it has encountered; but this is certain, that instead of equalizing the exchange, it has disordered it most severely, and that the present state of things cannot be permitted to endure if we can help it. The people cannot bear such a rapid retirement of the representatives of money as the proceedings of the Bank of the United States command."

In these passages we see already by what a direct transition the mis-

* 4 Folio Finance, 873. † 16 Niles, 417.

fortunes and misbehavior of the Bank, at this period, entailed upon it that political suspicion and hostility which were the moving forces in the Bank war of Jackson's time. The two chief expectations of the public from the Bank,—the equalization of the exchanges, and the prompt performance of fiscal services for the government,—had proved so onerous to the Bank that it had given up the attempt to satisfy them. The bitter disappointment and dissatisfaction of the public in respect to these matters are also expressed in the passages just quoted. The concessions which Crawford had made in April to the petitions of Cheves became known in August.* A particular refusal by the branch at Chillicothe to honor a draft of Governor Cass of Michigan for $10,000, which he needed in order to fulfill the stipulations of an Indian treaty, occasioned especial bad feeling. All the old fashioned, Jeffersonian republicans, who had suppressed their prejudices and convictions in obedience to expediency, now turned fiercely against the Bank. What had they obtained for their violation of "principle"? The germ of the great Jackson anti-Bank party was planted here. "It is now talked of as rank nonsense to expect that this institution should give us a currency of equal value in all parts of the republic; but who will be bold enough to say that, without an expectation and a promise of doing this, the Bank would have been chartered? It was *this* and *this only* which dragged the act through Congress, over prostrate consciences, if I may be allowed the expression, and the Constitution of the United States."†

The whole local bank interest seized upon this dissatisfaction and fanned it zealously. Also the would-be popular leaders came forward with their quack remedies. "The political empirics," said Adams, "are already as busy as spiders in weaving their tangles for Congress and the national Executive."‡ The banks seized eagerly upon the chance to turn attention from their own misdoings by complaints of the tyranny of the great Bank. One outcome of this feeling and these efforts was that several States tried to tax the Bank of the United States out of existence. February 11, 1818, Maryland laid a stamp tax on notes of any bank doing business in the State and not by or with the authority of the same. The tax was ten cents on a $5 note and varying amounts on other denominations. It might be commuted for $15,000. The Bank of the United States paid no heed to this law. In the case at law which resulted,§ the tax was held to be unconstitutional by the Supreme Court of the United States. It was held that the Bank was constitutionally endowed with a right to establish branches in any State. These branches were not taxable by the State, but real estate owned by the Bank, or the proprietary interest of citizens of the State in it, might be taxed like other property; Congress has power to charter a national bank as one means of carrying on the fiscal operations of the national government; the States cannot by taxation impede Congress in the exercise of any of its constitutional powers; if the end is legitimate and within the scope of the

* 16 Niles, 417. † 19 Niles, 317. ‡ 4 Adams Diary, 370.
§ McCulloch vs. Maryland, 4 Wheaton, 316.

Constitution, any means may be employed which are appropriate and not prohibited. It remained uncertain whether the operations of discount and deposit were included under the affirmation of this decision. In Osborn *vs.* the Bank of the United States,* this point was discussed, and it was held that, although it was only as an aid to the national fiscus that a national bank was constitutional, yet it might be a true bank, adopted and used for this purpose, and hence endowed with the power of banking, and protected in the same. Kentucky and Ohio levied taxes on the branches in those States† and Tennessee established a tax as a barrier to keep a branch out.‡ In joint resolutions of the Georgia Legislature, December 18, 1819, it was affirmed that the law of the State taxing banks applied to the Bank of the United States, but the Treasurer was directed to suspend the execution of the law as to that Bank for the present.§

In the spring of 1819 the exchanges rapidly grew worse, and so continued through the summer. The quotations at Baltimore in August were, in the local currency: Specie at a small premium; Boston, one or two discount; Massachusetts country banks, one to eight discount according to their repute in the city; Rhode Island and Connecticut, two to six discount; New Jersey, "specie paying," one or two discount; Philadelphia, par to a quarter premium; country notes, from one to sixty discount; "specie paying," one to five discount; Delaware, "specie paying," one discount; the rest eight to fifty; Maryland country notes, "specie paying," three to six discount; others, twelve to forty; District of Columbia, one discount; old banks of Virginia, one and a half to two discount; Bank of the Valley, two and a half to three; unchartered, seven and a half to twenty-five; North Carolina, twenty to twenty-five discount, nominal; South Carolina, eight to ten discount; Georgia, seven to eight discount; old banks of Tennessee and Kentucky, fifteen discount, nominal; new ones, twenty to twenty-five; Ohio, the best, ten discount, generally fifteen to twenty, many forty to fifty; the rest of the Mississippi Valley, fifteen to sixty discount.‖

Adams' notes in his Diary, June 10, 1819, a conversation with Crawford about the "operations of the Bank and the gigantic frauds practicing upon the people by means of these institutions. The banks are breaking all over the country; some in a sneaking, and some in an impudent manner; some with sophisticating evasion and others with the front of highwaymen. * * * * Crawford has labors and perils enough before him in the management of the finances for the three succeeding years."¶ This prediction was soon amply fulfilled. The Secretary of the Treasury was drawn into most serious difficulty by attempting to exercise those powers of supervision of banks and

* 9 Wheaton, 860. See p. 154.

† See pages 109, 153.

‡ See page 146.

§ An act of South Carolina, December 18, 1830, laying a tax of one per cent. on the dividends of the Bank of the United States and all other banks, not chartered by the State, was sustained by the State Supreme Court. (2 Bailey, 654.)

‖ 16 Niles, 434.

¶ 4 Adams' Diary, 391.

arbitration between banks which have been noticed above.* In order to help the banks of the District of Columbia to resume, he distributed public deposits amongst them.† Elsewhere from one end of the country to the other, he acted on the same policy, endeavoring to coax or help or reward and perhaps punish. He had bitter experience of the return which such action would obtain. Generally speaking the banks took everything they could possibly extort from him by any arguments or motives which they could bring to bear upon him, and they yielded nothing to him because he had no power of coercion, and they paid no heed to his remonstrances, pleading, or reasoning. The inducements which were offered to the western banks to resume specie payments and transfer public money to the place where it must be expended, "were believed to be both justifiable and sufficient to insure success, and the result has proved that nothing was necessary to the most complete success but the want of integrity in those who had the direction of some of those institutions."‡ In 1823 an attempt was made to ruin him politically, by charging him with having acted corruptly in this matter. Although it did not succeed, it left behind an impression which undoubtedly hurt him politically. For our purpose this incident is chiefly important because it led to the production of a vast amount of correspondence which reveals the operations of the banks in 1819, and also because it furnishes some more links in the series of precedents by which the usage was established of arbitration by the Secretary between banks. Crawford, justifying himself for what he had done, referred back to action by Gallatin, in 1813. Gallatin was a strong name, but the precedent proves to have been an act by William Jones, acting Secretary of the Treasury; in the name of Gallatin, it is true.§ May 27, 1813, Jones wrote to Girard, referring to measures taken by Gallatin, in respect to the public deposits in Girard's bank, to shield Girard against the attacks of the incorporated banks: "It is a particular province and it has been the practice of the Department of the Treasury of the United States to direct the moneyed operations of the public to the preservation of credit, by maintaining the equilibrium between the moneyed institutions of the country; and as it has protected your institution by the arrangement alluded to, so it will guard those institutions against any undue pressure which the public funds in your vaults may enable you to direct against them. I am informed that you have made some very heavy and unnecessary drafts of specie from several banks, particularly from the Pennsylvania and Farmers' and Mechanics' Banks, with indications of a disposition to interfere, which has excited considerable apprehension. I therefore deem it necessary to inform you that a continuance of that system will induce the prompt application of a specific remedy." February 13, 1817, Crawford wrote to the president of the Mechanics' Bank of New York: "The Secretary of the Treasury will always be disposed to support the credit of the State banks and will invariably direct transfers from the deposits

* See page 11. † 4 Folio Finance, 302, 361. ‡ Secretary Crawford; 1823. 4 Folio Finance, 262.
§ 4 Folio Finance, 266, 279.

of the public money in aid of their legitimate exertions to maintain their credit; but as the proposition of the Bank of the United States excludes the deal of pressure on its part, no measure of that nature appears to be necessary at this time."* It is evident that the precedent was marching on very steadily. In the hands of Jones it had been formulated into a principle.

After speaking of the distress in England, April 10, 1819, Niles goes on to describe the condition of things here: "From all parts of our country we hear of a severe pressure on men of business, a general stagnation of trade, a large reduction in the price of staple articles. Real property is rapidly depreciating in its nominal value, and its rents or profits are exceedingly diminishing. Many highly respectable tradesmen have become bankrupt, and it is agreed that many others must go." He goes on to say that confidence is destroyed and that three per cent. per month is the rate for good commercial paper.† May 22d: "There is no remedy, but the reaction is hard to be borne. The plain fact is that wherever there is one bank that attempts to pay its debts, there must be great distress; but in those places where there are two or more, God help the people! The curse of borrowing, of suffering 'paper to do our business,' is falling heavily upon us." "With nearly $500 in notes of different sizes, and of many old and respectable banks, in his pocketbook, the writer of this article was compelled, on Saturday last, to borrow market money." "Misery abounds and the neighborhood of every bank is a neighborhood of bankrupts, positive or anticipated." Smith & Buchanan failed in June, "with a crash which staggered the whole city of Baltimore and will extend no one knows how far. * * * The affairs of the house appear to have been desperate for many years, but they were Tyrian merchant princes and princely expedients have they taken to save themselves from sinking." They had controlled Baltimore, socially, politically, and commercially.‡

Matthew Carey stated that of thirty-seven merchants who signed a policy of insurance at Philadelphia in 1799, twenty-seven had become bankrupt in 1822.§ If the writers of the time were at all correct in their opinion that prices responded promptly to the inflation and contraction of the currency, how was it possible for anyone to do business?

Of course all this was attended by great suffering amongst the wages class. August 7th Niles says: "It is estimated that there are 20,000 persons daily seeking work in Philadelphia; in New York, 10,000 able-bodied men are said to be wandering the streets looking for it; and if we add to them the women who desire something to do, the amount cannot be less than 20,000." October 23d, he said that there were 7,288 persons idle in Baltimore. In the report of a Committee on Manufactures of the city of Philadelphia, quoted by him on that date, it is stated that trades which employed 9,672 persons in 1816, employed only 2,137 in 1819. "It is a singular fact, which conclusively shows the pressure of the times, that our master mechanics,

* Quoted in the Treasury Report on the removal of the deposits, December 3, 1833. † 16 Niles, 114.
‡ 4 Adams' Diary, 383. § 23 Niles, 130.

even of the most necessary callings, such as shoemakers, hatters, and tailors, are not doing more than one-half or two-thirds of the business which they did three or four years ago."* Many artisans returned to Europe.† As late as August 3, 1822, Niles said, "almost everybody is wondering how other people live" in Baltimore. Evidence of the fall in prices is equally plentiful. In July, 1820, it was stated that houses which rented for $1,200 before the crisis, then rented for $450; fuel had fallen from $12 to $5.50; flour, from $10 to $4.50; beef, from twenty-five cents to eight cents.

At this point we must recall the fact that the return of peace in Europe, after twenty-five years of war, had had great effect on commerce and industry. The English hoped, upon the return of peace, to recover all their old markets. They made very large shipments to this country. Here, also, the peace had been fatal to a great many manufacturing industries which had grown up under seven or eight years of embargo, non-intercourse, and war. The tariff of 1816, which was intended to save them, did so only to a limited extent. These new elements of trouble and confusion were complicated with those already mentioned. It was the large imports which furnished the revenue which enabled the Secretary of the Treasury to pay off a part of the public stocks in the capital of the Bank. The Bank had sold $2 millions of these stocks in England, and was compelled to buy so much in order to put it at his disposal, which was a technical violation of the charter.‡ Crawford stated that the reason for not letting the Bank buy public stocks, or sell them, beyond a small limit, was to prevent it from being able to control the credit of the government.

Niles had commenced a general onslaught on the "rag system" in his "Register" in the spring of 1818, and he seems to have had no little influence upon public opinion, in connection with banks and the great Bank. Banks were being multiplied on every hand and those which existed were growing worse and worse. We have here the explanation of the fierce denunciations of banks, in which many men who lived through that period indulged, and of the suspicion and prejudice against them, which they never overcame. Niles's expressions about banks are almost fanatical. He talks of them as one would talk of gambling hells. It is impossible to understand this without observing what the institutions were which he knew under the name of "banks," and how they were treating the public. He states that four banks in Maryland, whose notes were at from six per cent. to ten per cent. discount, had eight hundred foreclosure suits on the docket.§ He mentions going to a broker's office to exchange some notes issued at a distance, and meeting a man who was trying to buy bank notes, and grumbling that they were not cheaper. This grumbler was the president of the bank whose notes he was trying to buy.‖ He thus describes in a supposition the actual customs of banking at the time: "Let us suppose, and after what we know of banks, we may suppose anything! a majority of the board at Phila-

* 18 Niles, 435; August 19, 1820.
† 16 Niles, 435.
‡ 4 Folio Finance, 532.
§ 14 Niles. 140.
‖ 14 Niles, 135.

delphia, only thirteen men, resolve to get rich, or if rich, to get richer. They agree among themselves that the Bank *shall* lend to each of them, the *moderate* sum of $200,000, as a permanent accommodation for twelve months. Well, the amount being passed to their credit, they issue a peremptory order to the officers of the Bank, and its offices, that they shall not issue any more of their own notes. Within two months, money becomes scarce to those accustomed to a sufficiency of it—for all the prudent State banks are justly alarmed and know not what to do, except to get in their debts as rapidly as they can; and in two months more every species of property has a diminished nominal value compared with what it was, of thirty-three and one-third per cent., and lawyers and sheriffs are 'over head and ears' in business. The *gentlemen* then buy whatever they *choose* to speculate in, and getting all things *snug*, they discount freely, and seem almost to throw their bank notes about in the street. The State banks, anxious to retrieve lost time and make a good dividend, do the same thing, and money becomes instantly plenty. Property speedily assumes a price beyond what it had before its fall; the house or piece of land, which sold, 'a little month ago' for $1,000, is valued at $1,500, and the *gentlemen* speculators then sell; offering to purchasers assistance from the Bank, if needful to make a good bargain for themselves."*

Among the petitions presented to the Pennsylvania Legislature, in January, 1819, were several about banks. Amongst the rest, one "to annihilate the charters of all the banks in this Commonwealth; to make the property of the stockholders liable for the debts of the company, and to tax the Bank of the United States and branches."

The country bank notes of Pennsylvania were contracted as follows: 1816, $4.7 millions; 1817, $3.7 millions; 1818, $3 million; 1819, $1.3 millions.† The consequence was that farms and houses were being rapidly transferred to the banks which had made loans upon them. The ground of exasperation was that the banks had loaned upon them nothing but bits of paper, multiplied until all prices had risen, so that now, in the revulsion, the transfer of the property appeared as the consequence of a mere financial thimble-rig. Indeed it was little else. The system was not even honest gambling. It was gambling in which one party had never put up any stakes. The banks had adopted all sorts of devices to avoid any risk of being obliged to redeem their issues, and had indeed employed in banking, devices which belong only to gambling. Then when the trouble came, they "suspended"—that is to say, they withdrew from the performance of their obligations while insisting on the payment of debts to them. The Vincennes Bank of Indiana issued notes payable nine months after date at Vevay. "Nine months" was printed at the top in small letters, so as not to be noticed. The report of a Committee on Currency to the New York Legislature, February 24, 1818, described some of the devices by which banks had evaded their responsibilities, as follows: "By adopting a variety of schemes to get their notes into circulation, such

* 16 Niles, 290.

† Raguet's Report on the Distress.

as placing a partial fund in a distant bank to redeem their paper, and after the fact becomes generally known that their paper is at par in that quarter, issuing an emission of notes signed with ink of a different shade, at the same time giving secret orders to said bank not to pay the notes thus signed, and subjecting the owners of them to loss and disappointment." "Others * * * have issued a species of paper called 'facility notes,' purporting to be payable in either money, country produce, or anything else that has body or shape, and thereby rendering their name appropriate only by facilitating the ruin of those who are so unfortunate as to hold them." "A person this day paid us," says Niles, "a note which he received as having been issued in Philadelphia, and so it was; but unfortunately for him it was 'New Philadelphia' the 'New' printed very small and the 'Philadelphia' very large."* One of the commonest abuses in the banks was that the directors were supposed to have a right to large loans. In cases where the banks had been organized in the way which has been above described, this was a matter of course. The men who formed the bank, and gave their stock notes for the stock, borrowed the circulation as soon as it was printed, and had the advantage of holding it in the first hand; hence Niles says, apropos of the City Bank of Baltimore, in which all the officials, except one clerk and the porter, had taken out loans amounting to $426,083, and where, if the loans to the directors were included, the whole group had borrowed $100,000 more than the whole capital: "This is the great principle of modern banking; a cheat, a bubble, a machine for the exclusive benefit of a few scheming men."†

The bank which Niles was fond of using as a proverb was the Owl Creek Bank of Ohio, or, as he nicknamed it, the "Hoo Hoo Bank." This bank gave notice that, in order to counteract the injurious tendency of the United States branch banks in that State, it had thought proper to follow the example of other banks and suspend payment.‡

The Bank of the State of North Carolina tendered an oath to all persons who demanded specie of it that the notes had not been exchanged or bought up for the purpose of making the demand. The Bank of Darien, Georgia, forced everybody demanding specie to take an oath before a justice of the peace in the Bank, to each and every note, that it was his own, that he was not an agent for any other person, and this oath must be taken in the presence of at least five directors and the cashier. If they could not be found together, the demand could not be made. The sum of $1.37 1-2 on each note must also be paid on the spot by the person making the demand.

A volume might be filled with facts and incidents of this kind from this period. They account for language like the following about the abuse

* 15 Niles, 261.

† 17 Niles, 138.

‡ 16 Niles, 131. In 1837, he recalled a story of a mysterious individual who entered the Owl Creek Bank and demanded to have some notes redeemed in specie. He was told that the bank had neither. He then demanded Eastern funds. "No Eastern funds on hand," was the brief reply. "Can you," says the mysterious person, "give me tolerably well-executed counterfeited notes on solvent banks? I would prefer them to this trash." They started to expel him, when he threw down a hoot owl, saying that he had just killed their president. (52 Niles, 85.)

of banking: "We have had melancholy proof of this at the sacrifice of millions on millions of dollars, by the industrious poor, to pamper the pride and glut the inordinate appetites of *speculating scoundrels.* I use these words deliberately. Notwithstanding all the shavings, quirkings, twistings, and fraud, which the people generally are acquainted with, I feel authorized to say, that the history of *modern banking,* particularly in the middle and western sections of the United States, is as yet but very imperfectly known. The imagination of an honest man can hardly conceive the stupendous villainies that have been contrived, and which must, and will forever exist in every country where paper can be forced upon the people in lieu of money."* And again: "It has always been my opinion that of all evils which can be inflicted upon a free State, banking establishments are the most alarming. They are the vultures that prey upon the constitution and rob the body politic of its life blood."† "I have a letter from an honest man who was coaxed to his ruin by a bank. * * * Driven to the wilds of the West, he laments the friends of his youth and loss of society, details the hardships that belong to a new settler, and enumerates many privations, but 'blesses God that he is out of the reach of a bank.'"‡

Let it not be supposed that the passages which have been quoted contain the rant of a crank or an agitator. Niles often dogmatized about things which he did not understand. He was opinionated and prejudiced, but of his absolute integrity of mind and heart there is no question. He uttered the moral indignation of an honest man. The writers of the time exhaust the adjectives of disgust in their attempts to describe the filth and raggedness of the notes. The banks reissued them and kept them in circulation because, if they were worn out, or became illegible, or were lost, that meant that the public, which had borrowed them out of the bank, had to pay back to the bank true value for them. This state of things also gave the counterfeiter his chance, and the literature and the laws prove that counterfeiting was one of the most lucrative industries of the time. There were three kinds of paper afloat. 1.—Notes of regularly incorporated banks, with more or less pretense to solvency. 2.—Notes of banks which had no other existence than an office room with furniture, an engraved plate, and a bundle of paper. Their notes were kept out at as great a distance and for as long a time as possible; also in as great an amount. When they came home, the bank ceased to be. 3.—Counterfeits in enormous amount; although they differed from the second class only in borrowing a name which somebody else had invented, instead of inventing a new one.

The instances which have been mentioned are the more striking ones of abuse and outrage and are, perhaps, in so far, exaggerated. There were good banks, but such made little noise and have made little mark on the record. They also were exceptional. The most interesting record of one of them which we have found is the following. It is entitled "An Anony-

* 16 Niles, 130. † 17 Niles, 19. ‡ 14 Niles, 140.

mous Communication containing the History of Some Bank from 1806 to 1837, which at first was Managed very Conservatively; No Renewals, No Accommodation Paper, etc." "It was ascertained soon after the Bank was fairly in operation that its ability to discount had no sort of connection with or dependence on the amount of its capital." It required punctual payment by other banks of their notes, and so maintained its circulation by new discounts, while they, as they gave extensions, could not circulate their notes except by giving them to agents who forced them into circulation by exchanges. "The possession of capital was of no use except to inspire confidence." This being once fully established, the capital was an inconvenience. It was a trouble to invest it. The stockholders could have done it better individually. Therefore, in July, 1816, half the capital was paid back to the stockholders in specie. Still it suffered from the annoyance of unemployed capital. "To employ it in discounting commercial paper, experience had shown was not sagacious, as the bank's credit, which cost nothing, already supplied all the demands of trade." It therefore lent $25,000 of its remaining capital on mortgage in 1821. The remaining capital was $100,000, of which one quarter was thus invested. Subsequently a large part of the remaining $75,000 was lent on mortgage.*

The banks brought loans to every man's door. When a bank was established in a country town it became the current fashion to get a loan and undertake some enterprise. The need for a loan did not arise from a growth of affairs up to the point where a need of more capital was experienced. Not every man is fit to have credit. It is far from being a blessing to every one. An education in the use of capital is needed before one is fit to use credit. This was illustrated by the colonial banks; it accounts for such diatribes as we have just read, and we shall see it illustrated later in the history of the great banks of the South and West.

* In the inflation in 1835, the management of this bank was denounced as "old fogy" and the president was obliged to sell out and resign. He told the discontented stockholders that "of the two, he would rather find a counterfeit than an accommodation note among the bills receivable." In about four years the bank became insolvent. (Gouge, Journal of Banking, 210.)

CHAPTER VIII.

The Crisis in the Mississippi Valley.

THE crisis and reaction began in the West in the summer of 1818. The immediate agent was the Bank of the United States. We have noticed above,* the orders which were sent to the western branches from Philadelphia, the effect of which was to transfer the capital from the East to the West. It may perhaps be just to say that but for the Bank of the United States the West would never have been drawn into the inflation. The great Bank, however, as we have seen, was in great distress in 1818, and was obliged to curtail its operations in order to save itself. On account of its responsibilities to the Treasury, it was necessarily the agent of the correction of the mistakes which had been made in the West. As an equalizer of the currency, as an agent for the transfer of the public funds, and as the agent to discipline the State banks, it was certain to become extremely unpopular. It appeared to all the local banks and debtors as a "monster." It hardly appears, however, that the first outburst of hostility against it was on account of any contraction, or disciplinary action which it exercised; but rather due to a jealousy of it as a foreign institution, present in some of the States, perhaps against their will; possessed of privileges; paying no taxes, and holding the attitude of a school-master.† In Kentucky an act was passed, February 3, 1818, to tax each branch of the Bank $5,000 per annum, commutable at 50 cents on each $100 of capital in each branch, or 25 cents on each $100 of loans and discounts, as they might stand on the 10th of March in each year. This act was considered entirely reasonable in amount and method.

The popular temper in those days went through oscillations of mania for banks and rage against banks. Within a year or two, two Legislatures would be elected which might represent the extremes of these two feelings. Governor Slaughter opened the session of the Kentucky Legislature of 1818-19

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* See page 80.

† Senator White, of Tennessee, in a speech in 1838, said that the Bank of the United States, after establishing its branches in Kentucky, exacted payment for its loans when they became due. "To this the people had not been accustomed, and, as is always the case, although the Bank had been popular when making loans, it soon became very unpopular when trying to collect its debts."

with a message in which he expressed fear of banks and of a moneyed aristocracy founded on them. He proposed to the Legislature that they should propose an amendment to the federal Constitution, providing that after a certain time no incorporated banks should exist in the United States. Resolutions were introduced in the Kentucky Legislature, January 4, 1819, that banks with private stockholders were "moneyed monopolies tending to make profit to those who do not labor out of the means of those who do, * * * tending to tax the many for the benefit of the few," and that the federal and State governments ought "to abolish all banks and moneyed monopolies and, if a paper medium is necessary, to substitute the impartial and disinterested medium of the credit of the Nation or of the States."*

As the Bank had paid no attention to the tax law of the previous session, another act was passed, January 28, 1819, which showed a different temper. A tax of $60,000 per annum was laid on the Branches or offices of any bank doing business in Kentucky and not incorporated by that State, to be paid monthly, commencing March 4, 1820. The Sergeant of the Court of Appeals was authorized to break open and enter the Bank and distrain for the tax. If the Bank of the United States would promise, within six months, to withdraw its branches, the tax would not be collected. This law of Kentucky was passed just at the time that the Supreme Court of the United States decided the case of McCulloch *vs.* Maryland.† In December following, the case of the Commonwealth against Morrison came on before the Court of Appeals of Kentucky.‡ Judge Rowan delivered a long opinion on the tax of the Bank of the United States. If the States cannot tax any such institution doing business within their borders, they are petty and insignificant. Banks are not necessary to collect the revenue. "Their location in a State is as if done by a foreign nation." The taxing power is concurrent;—neither federal nor State government should interfere each with the other. If the government uses its funds for stock jobbing or traffic in a State, it is liable to taxation. Although the Court believes that the Bank is unconstitutional, yet it must bow to the decision of the Supreme Court of the United States. Such was the decision of the Court, but it is said that Rowan thought that they ought to stand out for a further struggle in the interest of State rights.§

The Bank found it necessary to very much contract its business in Kentucky. Its circulation there, in 1819, was over $630,000. It was gradually reduced until in 1825 it was only $170,000; then it began to increase again, and in 1828, was $1.3 millions. This was the ground of the charge which was brought against it in the bank war, of having discontinued business during a period of seven or eight years. This conflict between the Bank of the United States and the local banks, with all the reasons for the same, are completely set forth in a letter by Crawford, in 1823.‖ The Bank agreed to accept, in trust for the Treasurer of the United States, all notes of banks selected by itself as depositories where it had no office, and of such others

* 15 Niles, 417. † See page 100. ‡ 2 Marshall, 75. § Kendall's Autobiography, 205.
‖ 4 Folio Finance, 262.

as it might agree to credit. This arrangement could not be maintained in 1818, when the crisis came on. The Bank could not receive notes of banks which would not redeem. The banks complained of its demands. The Bank refrained from issuing its own notes and refused to receive for the credit of the Treasurer of the United States anything but specie or its own notes. Thus the debtors for the public lands became liable to pay specie for all their debt. Crawford regarded this state of things as creating a political peril which the Executive was bound to avert, if possible, and this is his defense of his interference to favor banks with the use of the public money, that they might favor the debtors to the Treasury for public lands.

The Bank of England through this period and long afterwards, received country bank notes for revenue, but did not become responsible to the Exchequer for the amounts until the notes were converted into coin or Bank of England notes.*

February 6th, 1819, the charter of the Bank of Kentucky was extended to 1841. No more branches were to be established except by a vote of two-thirds of the State directors and two-thirds of the stockholders' directors, with the assent of the Legislature. The stockholders were to appoint one visitor and the Legislature another, to inspect and examine the bank. The present stockholders may withdraw after December 31, 1821. After May, 1819, no bank was to issue any note for less than $1.

"In the early part of 1819, the price of all articles produced in the Western States fell so low as scarcely to defray the expense of transportation to the ports from whence they were usually exported to foreign markets. This condition of things, which had not been anticipated when the debt for the public lands was contracted, produced the most serious distress at the moment, and excited alarming apprehensions for the future."†

* Quin, in 2 Raguet's Register, 35.
† Crawford's Letter of February 15, 1822, 3 Folio Finance, 718.

CHAPTER IX.

The Liquidation on the Atlantic Coast.

DURING the summer and fall of 1819, on the Atlantic Coast, the good and bad banks were being rapidly separated from each other, the former growing steadily stronger, and the latter rapidly falling or their notes becoming uncurrent. In July, the Committee on Banks of New Hampshire reported all the banks solvent, although one was thought to have made excessive issues, and the New Hampshire Bank, in which the State owned $25,000 stock, had made some bad debts. A legislative committee in Massachusetts reported all the banks solvent. From Connecticut it was reported that no bank had failed or suffered a run.* In the Middle States laws to restrain banking were passed by nearly all the States. In New York there was a penalty of ten per cent. for non-redemption. Pennsylvania passed an act, March 29, 1819, providing that any one of "the forty" banks incorporated in 1814, which did not pay specie on and after August 1st, on demand, should forfeit its charter. The Governor in his next message said that this act had not been enforced against any one of them,† but the Treasurer of the State gave notice, in February, 1820, that the charters of five specified banks were null and void.‡ In Maryland a law was passed providing for a *scire facias* to annul the charter of any non-specie paying bank. Several of the New England and Middle States passed laws within a year or two, forbidding notes under $5. Thus the currency was steadily improved during 1820. As early as October 16, 1819, the Bank of the United States gave notice that it would receive, at any office, its notes for $5 issued at any office. It had saved itself and thrown the consequences of all its folly and misdoings on its customers (who were not indeed blameless), and on the public. The loans and discounts of the Bank, in July, 1817, were $26.2 millions. They steadily increased to $41.4 millions one year later. Then they declined to their minimum for the period, $28.0 millions, in January, 1822. The circulation was lowest in July, 1820; $3.5 millions.§

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* 16 Niles, 321. † 17 Niles, 401. ‡ Ibid., 447. § Treas. Rep., Jan. 15, 1838.

The difficulties which the Bank of the United States experienced in equalizing the exchanges became especially manifest at Savannah and at Cincinnati. At the former city, the balances due to the branch by the local banks, chiefly on account of the accumulation of their notes in it by the payment of duties, were $100,000 or $200,000, during 1817, 1818, and 1819. Sometimes they were more than $400,000, and at the beginning of 1820 they exceeded $500,000. These balances they at length refused to pay, whereupon the Bank refused to accept their notes and account for them as cash to the credit of the United States. The Bank agreed to allow them $100,000 as a permanent deposit, the payment of which should not be demanded; but when payment of the excess was required, they refused it. The local banks, defending themselves, objected to daily cash settlements, which the Bank had required. A committee of the directors at Philadelphia said: "The practice of daily settlements prevails, it is believed, among four-fifths in number and in amount of capital of the banks of the principal cities of the United States." Other evidence does not support this assertion, and if it was true at the time, in the days of penance after the panic, the custom soon after fell into disuse. The committee of directors, however, recommended to relax this so far that the settlements be weekly. The Savannah branch was also forbidden to issue its own notes while the exchanges were adverse. The president of that branch reported that weekly settlements would probably be as little palatable as daily ones. He thought that monthly ones would be agreed to, but gave his own opinion that there was no need for settlements more frequently than semi-annually or annually. From this discussion it is very easy to see that, if there had been no Bank of the United States, the local banks could have followed an unrestrained policy of inflation, but that the drift of their notes into the Bank, which was the same as to say the Treasury of the United States, brought about a demand upon them which limited their issues. We learn from the same correspondence that the notes of Georgia and the Carolinas circulated far into the West and Northwest, were received for lands, and were sent into the eastern branches to be collected. Thus the collision between the national bank and the local banks was direct and violent. It was only by means of it that the local currencies could all be equalized by all being brought to par. It is clear that the first requisite of success in this duty was that the Bank of the United States should itself be as sound and as correct in its methods as any bank could possibly be, and that the thing which lamed it in its efforts to regulate others was the revelation by the Committee of 1819 of what its own misbehavior had been.

In July, 1821, the notes of the Planters' Bank of Georgia were thrown out by the branch of the Bank of the United States because it had suffered them to be protested. Out of this another quarrel grew. Cheves said that "the avowed object of the Planters' Bank is to prevent the office from receiving its notes, in order that it may be in no shape called upon to redeem

them in legal money." The amount which the Bank now had locked up in Savannah was over $400,000.*

The Bank and the local banks reached a concordat in January, 1821, the latter agreeing to pay interest on all over a maximum balance, but their notes still continued to accumulate in the Bank. In the following summer, the Planters' Bank broke the arrangement, and again entered into open hostility with the Bank. In a letter to Crawford, the president says: "Aided by such an immense capital, and having the additional weapon of the federal revenue, it is impossible to maintain intercourse with such an institution." "A feeling of dissatisfaction or irritation against the government never existed in the banks or in this community, until this mammoth came here to destroy our very substance." "You will perceive readily that our main object is to prevail on the Bank of the United States to refuse our paper and to deal on their own. While they decline issuing their own bills, and none comparatively of the public revenue is expended in this quarter, it is impossible for the State banks located in the same place with it to exist."† To this Crawford replied that if the local notes were not received by the Bank, people who had duties to pay would demand specie of the banks, with the same result. "Experience has shown that so long as the notes of the Bank of the United States and its offices are everywhere received in payment to the government, they will circulate only where the principal part of the revenue is disbursed." He explained that the drain of specie from Georgia to the North and East was "in no degree ascribable to the Bank. It is the result of the operations of the government." He tried not to be drawn into the controversy, but put the Planters' Bank entirely in the wrong.‡ In a later letter the president of that Bank regretted that the discretion of the Treasury could not have been "exercised in behalf of the community that has suffered so much as this under the lash of the United States Bank." "Congress can hardly consent to see the southern States torn to pieces and rendered disaffected towards the federal government, which would seem to be the inevitable consequence of the present measures of the United States Bank, which it is enabled to pursue only by the means derived from the collection of the revenue."§

During this controversy, the Georgians had made constant threats that they would invoke the interference of their own Legislature.

A Committee on Banks made a report to the Senate of Georgia, November 30, 1821,‖ in which they say that Georgia has aimed to furnish herself with a currency by her own banks, and at the same time to get an investment for her State funds. She has been frustrated in this by the intrusion of the Bank of the United States which long refused to issue notes. It got possession of the notes of the State banks and by demanding specie for them, drained away specie. The Committee advises against any collision, but recommends that no notes presented by anybody with a demand for

* 4 Folio Finance, 931. † 4 Folio Finance, 1069. ‡ 4 Folio Finance, 697.
§ Ibid., 1075. ‖ Session Laws of 1821, p. 130.

specie shall be paid unless an oath is taken that the notes do not belong to the Bank of the United States and are not presented in its interest.

December 24, 1821, it was enacted that State bank notes presented by the Bank of the United States for specie should not be paid unless the agent would take oath that they were not collected for this purpose. If an officer of a State bank suspected that a person who demanded specie was an agent of the Bank of the United States, he might demand of him to take an oath before a magistrate that that Bank had no interest. If such person refused to take this oath, he might be refused redemption of the notes. Whenever the Bank of the United States demanded specie, it must send with the notes a schedule of their numbers, date, letter, amount, and page, dated the same day. The notes of the State banks in the Bank of the United States should not bear interest on account of any refusal to redeem them.

This law was repealed December 20, 1824.

In April, 1822, the branch at Savannah was taking no Georgia notes except on special deposit, "inasmuch as an act of the Legislature authorizes them to refuse specie payments to the Bank of the United States or offices thereof, and interest, if sued."*

In South Carolina, at the session of 1819-20, "nothing but the great exertions of some able and distinguished men probably prevented a system of State paper money from being adopted." In the opinion of Cheves, the motive was to get a currency the redemption of which could not be enforced by the Bank of the United States.†

A similar quarrel occurred at Cincinnati. In August, 1818, the Bank called on the banks of Cincinnati to pay 20 per cent. of their debt to it monthly, and to pay interest on it. The local banks replied, through a committee, in a tone of astonishment and indignation, saying that they were ready to meet all demands in the ordinary course of business, but "are not prepared to redeem, at a few months' notice, all the paper they have issued for years past." They have paid to the branch $1.4 millions in eighteen months, which has forced them to withdraw almost all their circulation. They are called upon to pay, either in specie, United States notes, or eastern funds, none of which can be had. "We consider the liquidation of an interest account at the expiration of every thirty days as a grievance unprecedented. An interest account, it is believed, is not usual between banks. In the western country it certainly is not." To this Jones replied: "He must be a sturdy debtor indeed who boldly withholds both principal and interest, and defends it as a matter of right."‡

The office at Cincinnati was discontinued in September, 1820. In 1822 the debt to the Bank in Ohio and Kentucky had been reduced not quite $1 million.

These cases show why it was that, during the years of liquidation, the Bank of the United States found it impossible to maintain any circulation in

* 4 Folio Finance, 963. † 4 Folio Finance, 931. ‡ 4 Folio Finance, 859.

the western and southern countries. Its notes were gathered up and used as a remittance to the North and East. At the same time the local banks, whose notes had been paid into the Bank in the public revenue from lands, were unable to redeem them. The local banks thus became possessed of the capital of the Bank of the United States, and the latter was forced to pay out their notes in order to make any use of them, thereby neglecting its own circulation.

The dividends of the Bank of the United States were as follows: 1817, eight per cent.; 1818, five and one-half per cent.; 1819, nothing; 1820, nothing; 1821, four per cent.; 1822, five per cent.; 1823, five per cent. In the meantime, the United States was paying five per cent. quarterly on its stock notes, so that in 1824 it was calculated that $500,000 had been lost by the public Treasury through its shares in the Bank. The stock was at 122 1-2. Niles thought that the public shares should be sold.* The average of the dividends from 1817 to 1831 was a little over five per cent., paid semi-annually; so that the public investment showed, until that time, neither gain or loss.†

In a report on the currency, February 12, 1820, Secretary Crawford estimated that the circulation in 1815 was $110 millions and that it was greater in 1816. At the end of the year 1819, he estimated it at $45 millions. Nearly two-thirds of the circulation had been reduced to waste paper. The Secretary said: "As the currency is, at least in some parts of the Union, depreciated, it must in those parts suffer a further reduction before it becomes sound. The nation must continue to suffer until this is effected. After the currency shall be reduced to the amount which, when the present quantity of the precious metals is distributed among the various nations of the world in proportion to their respective exchangeable values, shall be assigned to the United States, when time shall have regulated the price of labor and of commodities, according to that amount, and when pre-existing arrangements shall have been adjusted, the sufferings from a depreciated, decreasing, and deficient currency will be terminated. Individual and public prosperity will gradually revive, and the productive energies of the nation resume their accustomed activity."

It took time for this liquidation and readjustment to be accomplished. Specie was imported in the winter of 1819-20, and in July of the latter year Niles said: "It is stated, and we think with probability, that there was never more specie in the United States than at this present time."‡ It was largely imported from Mexico, through New Orleans, during the next years.§

The international relations, however, had changed since 1816. The European nations, England especially, were struggling in 1819 to resume specie payments. Specie was moving from country to country in an unprecedented manner. Several of the great nations were contracting loans, partly in order to resume. The whole civilized world was in the midst of

* 26 Niles, 241. † 41 Niles, 118. ‡ 18 Niles, 365. § 24 Niles, 160.

the financial storm through which the equilibrium of peace was restored, after the prolonged artificial disturbance of the Napoleonic wars. Prices were falling and business was stagnant the whole world over. The reaction therefore went on, as it always must under such circumstances, to a point below the real point of equilibrium. The nations had to bid against each other for the supply of the precious metals by lower and lower prices. The exchanges were in constant fluctuation and produced strange and complicated phenomena which lay outside the experience of people then living. Since 1797, England had had inconvertible bank paper which had been depreciated from one per cent. to 25 per cent.—for the greater part of the time, about eight per cent. or ten per cent. Since 1814 there had been a redundant and depreciated currency here. Thus there had been various combinations working on the sterling exchange on both sides; sometimes both currencies had been good; sometimes both bad; and sometimes the English had been good and the American bad, and *vice versa*. At the ratio of 15 1-4 to 1, the par of exchange would be $4.64 for £1 sterling, and as $4.44 4-9 was traditionally taken as 100, the par, under the fashion of quoting, was 104 1-2. Americans had been accustomed to see the exchange quoted between 90 and 100, which figures were especially calculated to produce confusion and error. In 1821 it averaged above 108; in 1822, 112. In 1822, it reached 114; it had been seen as low as 80.* There was also a change going on in the relative value of gold and silver, on account of which, under the false rating of the American coinage at the time, gold was exported from this country. It was said that, between 1820 and 1822, the last gold coin was carried away. The ratio of the metals was for a time above 16 to 1. $10.60 or $10.70 in silver were given here for eagles to be exported to England in order to draw exchange against them. The consequence was a check to imports, an encouragement to exports, and a discouragement to the investment of capital here if the profits were to be paid here. The Bank of the United States found it necessary to recede from an offer it had made to pay dividends in London, on account of the loss on exchange. The amount of American stocks held in England at this time was estimated at $30 millions.†

During the years of liquidation, the rate of interest was very low, and first rate securities were so high as to net only four or five per cent. In 1821, Spanish dollars were at par of the currency in all the chief cities of the coast, except Boston, where they were at one-quarter or one-half of one per cent. premium.‡ In May, 1822, there was a flurry in the money market of the chief cities. United States Bank stock fell at New York from 110 to 98. The banks there and at Philadelphia and Baltimore stopped discounting, "and it appeared as if some frightful mischief was rapidly approaching." A great stringency in the money market of Boston, and numerous failures, was the report from that quarter. In June and July, there were said to have

* 22 Niles, 132. † 20 Niles, 273. ‡ 21 Niles, 38.

been more than eighty failures. The best explanation which was offered of these incidents was that they were due to weakness left behind by the crisis of 1819, in which Boston was not spared, although it had been outside of the earlier troubles between 1814 and 1817.*

* 22 Niles, 161, 245, 353; 23 Niles, 358.

CHAPTER X.

Liquidation in the Mississippi Valley.—Relief Measures.

IT might naturally be supposed that frontier society, consisting of a very sparse population with few and poor means of communication, would not easily be united on any opinion or policy. It is very true that such society had a very low social organization, and that the civil authority was powerless to enforce the most salutary measures which were irksome and unpopular, but the history of all our societies in their early stages has shown that they are far more susceptible to gusts of passion and storms of opinion than older societies. One chief explanation appears to be that life was so dull and tame that any excitement, and especially social contact, was eagerly sought. Men went twenty miles to the county town to see the Court come in. A camp meeting, a barbecue, a convention, sufficed to draw together all the people of a county. On these occasions passion, prejudice, argument, etc., inflamed the people, and the mysterious sympathy of a crowd seemed to act more intensely on people who were unused to it. The orators curried popularity and applause. The crowd was very capricious. It was not easy to tell in advance what would "take" and what would fall dead.* The ambitious men sought only to perceive the currents of popular feeling. The consequence was that they always exaggerated the tendencies which had once started. They tried to distinguish themselves by their zeal and excess in the popular cause. Therefore everything tended to run the current of the moment to excess and abuse.

If these facts are noted they go far to explain the extravagances of the relief system, of paper money banking, of internal improvements, etc.

There is in every commercial community a general indebtedness. It is constantly being dissolved and renewed. It is quite a different thing when a simple agricultural community consists of householders, nearly every one

* The indignation over the Wiggins' loan of 1831, by which the paper of the Bank of the State of Illinois was redeemed, was unsurpassed in Illinois, except when the Legislature passed a law prohibiting small bulls from running at large. This was to improve the breed. The people were furious and "took sides with the little bulls." (Ford, 107.)

of whom is under a load of long debt, by which he has pledged his future production and savings; even if the load is not, under favorable circumstances, excessive. Taking into account the vicissitudes of life:—natural calamities, disease, personal and family misfortune, there will be a percentage of such debtors who will fail to carry out successfully the enterprises for which they incurred debt. This is so even in a new country, where the drafts on the future are in fact honored to a marvellous extent, even when they were rashly and unwarrantably drawn. In the case, however, in which the plans are excessive, extravagant, and ill-devised, and where the capital is carelessly and recklessly managed, the only consequence must be a wide sweep of financial disaster. Then, if the bankrupts are voters, and the institutions of civil government are those of a democratic republic, a general indebtedness comes to appear like the worst of political and social diseases. This disease has ravaged the United States again and again within two hundred years. It is no doubt attendant on a spirit of feverish enterprise, indomitable industry, and a sanguine temperament. It has impressed on our national life a character of endless vicissitude, and alternations of heats of prosperity and chills of disaster. How much more capital have we, how much more secure are fortunes, how much more really efficient is the productive power of the nation, than it would have been on a system of cash and patient accumulation with realizations?

"Money is scarce" when a great many people have given money for goods in the expectation of giving the goods for money again at a gain. Then the time comes when the people who have money will not part with it for goods at the prices ruling because they think them too high. They withdraw the money from circulation. This is the "contraction" which tells. There arises a complaint of "sluggish circulation of money," of "over-production," of the "cruelty of competition," and the "tyranny of the conjuncture." The attempt always suggests itself to remedy the trouble by "issuing money enough for the wants of trade." If this remedy could be made operative it would force the holders of money to part with it for goods at rates satisfactory to the holders of the latter. This device has never been made to work. To see the reason why, it suffices to ask one's self whether one would allow it to be put in effect against one's self. "In vain the net is spread in the sight of any bird." The people who have the advantage of the market must be slaves, imbeciles, or cowards to give it up and exchange places with those who are on the other side. As to outstanding contracts the case is different. There the "sovereign" steps in. Ethics and metaphysics are invoked. We hear of "distributive justice," and the legislator and judge go to work to administer it. Stay laws and legal tender laws are their chief engines. The only effect which results is a dissolution of the bonds of society and a reign of injustice, with a suspension of all the recuperative operations which would otherwise automatically begin.

KENTUCKY.—The Bubble having burst, the time had now come for "relief." Relief meant that some were left long of goods on a market which

had dropped. They wanted something to raise prices again long enough for them to unload on somebody else.

The history of the relief laws of the western States runs back to the first settlement of Virginia. Through the eighteenth century the laws for execution on judgments oscillated between security to the creditor and leniency to the debtor. Whenever "times were hard," the collection laws were relaxed; when the exigency passed, they were restored. The preambles of the laws throw an interesting light on the experience of these two lines of policy. It came to be the standard of severity, amongst those who had grown up under the Virginia tradition, that a debtor whose personal property was taken in execution might replevin the goods for three months on giving bond with surety for the debt and costs. In Kentucky, land was made liable to execution although it had not been so in Virginia. When land was taken, an old Virginia institution was applied in a modified way. Appraisers were appointed and the land was valued. Originally this was a fair device where there was no proper market to make a price. It was adopted in all the States and Territories of the Mississippi Valley, except Louisiana and Michigan. In times of general indebtedness it became a means for the debtors to band together against the creditors. The laws provided, with various minor differences, that the land or property should not be sold unless it would bring at auction one-half or two-thirds or other fraction of the appraisal made by neighbors who were all likewise debtors. If it did not, it was restored to the debtor for a year or other period. The term of replevin was also sometimes extended. Later, this was connected with a provision that the debtor should have a replevin for a year or other set time unless the creditor would endorse on the writ that the officer might accept in payment some specified kind of currency; being always a depreciated kind. These laws always provided that, if the debtor did not avail himself of his relief, the property should be sold on a credit for a term which corresponded to the delay which he might have had under the law; the buyer to give a bond to pay at the term.

The collection laws of Kentucky were brought back, in the first years of the century, to the old standard above described, but at the beginning of the inflation period they began to be relaxed again. The laws staying execution, unless the creditor endorsed the writ, were extended from year to year; but in 1818 the required endorsement was only for notes of the Bank of the United States or of the Bank of Kentucky.

February 6, 1819, the endorsement law was further extended till February 5, 1820, but the endorsement was now to provide for notes of the Bank of Kentucky only. This Bank of Kentucky, whose notes the creditor must agree to take, had suspended in the middle of November, 1818, but was compelled by public opinion to resume within a week. It was, therefore, limping along during the year 1819.

Committees of the Bank of Kentucky, the Farmers' and Mechanics' Bank of Lexington, the Commercial Bank of Louisville, and the Louisville

branch of the Bank of the United States held a meeting at Lexington, May 22, 1819, to consider the distressed state of the country and devise a plan of relief; but their real purpose was to "counteract the objects of those who are disposed to suspend specie payments and establish replevin laws."*

In June of that year, the gross amount of debts due to the banks in Kentucky was estimated at $10 millions; $5 millions to the Bank of Kentucky, $3 millions to the branches of the Bank of the United States, and $2 millions to the independent banks. County meetings were held to get a suspension of specie payments, more paper money, and an extra session of the Legislature to pass relief laws.

At a county convention in Jefferson County the vote was three to one against approving a suspension of specie payments by the Bank of Kentucky.

In August, 1819, the independent banks refused to do anything but exchange little notes for big ones and *vice versa*. They nearly all failed before the end of the year.

During the year the Bank of Kentucky became heavily indebted to the Bank of the United States on account of the great advances which the former made to the independent banks. In November, the latter bank ordered the debt to be collected. The Bank of Kentucky suspended and compromised. Its notes were at fifteen per cent. discount. May 4th, 1820, the stockholders of the Bank of Kentucky voted to suspend specie payment. This suspension became permanent and the bank ceased to exist. "What did we tell the people of Kentucky when they littered their banks and were so anxious to introduce the offices of the Bank of the United States?"†

The Legislature of 1819-20 showed itself to be a relief Legislature. December 16, 1819, a law was passed over the Governor's veto to suspend for sixty days sales on execution, whether on judgment or on bonds. January 10, 1820, the law of ten per cent. damages on foreign bills of exchange was repealed; a blow at the Bank of the United States. February 10th the independent bank law was repealed. The act has a very long preamble; it states that all men are equal; that there is no monopoly in the social compact; that all power is inherent in the people. These propositions are to lead the way up to the next one which is, that all laws granting privileges to the few are tyrannical and therefore repealable by the supreme authority. To say that charters are irrepealable is to say that abuse must be perpetual. All laws which harm the people are against the social compact, and "are subject on first principles to the condition of being repealed." A bank charter gives privileges to the few. "To the end, therefore, that the good people of this State be delivered in future from the baneful effect of the power and privileges granted by the law establishing independent banks in this commonwealth, which have been exercised in many cases in the plenitude of tyranny, oppression, and abuse, to the great injury of the good people of this State," that act is repealed from May 1st.

* 4 Follo Finance, 883. † 16 Niles, 261.

The forty banks which were overturned with these solemn and dogmatic enunciations had been founded, not by capitalists and monopolists, but by a beneficent Legislature, pursuing a policy of prosperity on behalf of "poor men."

It is plain that one of the chief reasons for the popular antipathy to banks was the notion that they made the rich richer and the poor poorer. This was the meaning of the endless declamation about aristocracy and equality in connection with banks. That banks of the kind which then existed in such immense numbers, organized by insolvents, destitute of capital, engaged in paper money mongering, had this effect is beyond question, except that, in the end, they almost invariably ruined also those who had at first won by them; being in this like all gambling devices, with which in fact they ought to be classed.* The popular feeling did not, however, attach to this view of them. It was because they loaned only to the "rich" that they were alleged to have this effect, and the popular demand was for real democratic banks which would act "equally." Equality before the banks, however, could only mean that all men ought to have equal credit. When the doctrine of equality comes to be applied to commercial credit it receives its final and most pitiless refutation. The great Banks of the States were built upon this notion, and they made an experiment of it which was ample, unreserved, and conclusive. The effect of giving equal credit to all, at least who were freeholders, was to ruin everybody and at last the banks also.

February 11, 1820, another relief law was passed. The creditor might endorse that notes of the Bank of Kentucky would be received. In that case the debtor had a replevin of one year, or the property was sold at one year's credit for the bond of the purchaser, and on such bonds there was no replevin. If the creditor made no endorsement, the replevin was for two years. After judgment and before execution, the defendant might enter into recognizances with one or more good sureties to pay in one year with interest. If he did so, all proceedings were stayed for one year; then there was summary judgment, as on a replevin bond; but if there was no endorsement that Bank of Kentucky notes would be received, the recognizances ran for two years, not one. Where no recognizances were entered into, there was to be no execution until ten days after the rising of the Court. This act was to be enforced until March 1, 1821.

It is evident that in all these stay laws the effort was to get a postponement, such as was employed in the earliest development of bankruptcy proceedings. What is the sense of such an act of the sovereign power? It can only be that a solvent person, disappointed of his receipts, is momentarily unable to pay, but has bills receivable in excess of his bills payable; so that in a short time he can pay. To force him to liquidate on the spot would sacrifice his assets. Another case where such an act would be justifiable

* "Most of the errors in the business of the bank," said the president of the Bank of the State of Indiana, in 1842, "have visited with retributive justice all the parties concerned. The large loans, the long loans, and all special favors to directors and stockholders, have been not less injurious to the borrowers than to the bank."

in a less degree would be where it is assumed that the debtor can and will win a surplus out of his business in another period of production. In this case, a delay would involve risk on two points,—his success in production, and his persistent frugality to save what he produces and devote it to the payment of his debts. In the stay laws now before us, the pretense was that they were justified under the second head; and it is very possible that there may have been individuals who fitted the theory, and who successfully emancipated themselves from debt under the system; but the debtors, as a class, were persons who had bought for a rise, to whom a delay could be of no use unless the inflated prices should return.

February 14th, it was enacted that no damages or interest on notes due to the Bank of the United States, or on any debts to it, should be awarded by any Court in excess of one per cent. per annum. For the future, any greater rate should be usurious and void. This act was to come into force March 15th, but if the Bank should pay $15,000 to the Auditor before April 1st, the act was no longer to be in force. On the same day, an act was passed to enable the independent banks to collect debts due to them in liquidation. Those which appointed commissioners in liquidation were not to be liable to suit for a year.

The forty banks had been founded in the period of inflation, as a means of developing industry and as a policy of prosperity. They had all been smashed in a reaction of legislative petulance. Next a big paper money bank was founded as another step in the system of relief to the debtors whom the prosperity policy had created.

November 29, 1820, the Bank of the Commonwealth of Kentucky was incorporated. It had no stockholders. The officers were elected annually by the Legislature. Their salaries were paid by the State, and they were incorporated. No one was to have a loan of more than $1,000, except the directors, who might have $2,000. It was to issue $2 millions in notes, which were to be apportioned between the counties in proportion to the taxable property in each, in 1820, and were granted in loans on mortgage securities. Loans were to be made in 1820 only to those who needed them, "for the purpose of paying his, her, or their just debts;" or to purchase the products of the country for exportation. Borrowers during 1821 were to take oath as to the purpose for which they wanted the loan. Here then was a novelty in banking, an institution which sought as borrowers, not solvent persons of high credit, but embarrassed and perhaps insolvent debtors. When complete, the bank had twelve branches; its capital was to consist of all money thereafter paid in for land warrants, or land west of the Tennessee river [this was a contingent revenue, which, inasmuch as the land speculation had passed by, proved very small]; the produce of the stock owned by the State in the Bank of Kentucky, after that bank should be wound up [the compulsion to take the notes of the independent banks had ruined this bank, and destroyed the value of its stock]; the unexpended balances in the Treasury at the end of the year [during the life of this bank there were none].

The profits of the bank were to go to the State. The notes were legal tender to and from the State. The Legislature appropriated $7,000 to buy books, paper, and plates for printing the notes. This is all the real capital the bank ever had. Stripped of all pretense, therefore, it was the State Treasury put into the hands of a commission, elected by the Legislature. This commission was said to be "incorporated," but they held no assets, and some acts of legislation look as if it required a vote of the Legislature to pay judgments obtained against them. It was asserted that the notes of the bank got into the hands of speculators, who held them in order to buy property when the crash should come. This was expected when the stay laws would expire.*

In the Bank of the Commonwealth of Kentucky *vs.* Mayes, in the Circuit Court of Mercer County, Kentucky, in 1834, the Court said: "This bank is owned and governed by the State; it is established in the name and on behalf of the State; the State pays and defrays its entire expenses; all individuals are indicted from participating in it; its paper is circulated as money; it is receivable and redeemable by the State, and derives its circulation and negotiability from the credit of the State. If its notes are not bills of credit within the meaning of the Constitution, it will be difficult to characterize a bill of credit." From this decision we also learn that the lowest denomination of the notes of the bank was twelve and a-half cents.

This bank was a mere paper money machine. If by a "bank" we understand an institution having some permanency, and intended to continue an action and reaction through some prolonged period, for the satisfaction of constant or recurring financial necessities, this institution would not properly be called a bank, nor yet even a loan office. The idea and intention were to inflate the currency and raise prices until the indebted persons could discharge their debts. Then the issues were to be recalled and burned, and the purpose would be accomplished. It was never proposed to make these issues legal tender, because that was understood to be hopeless under the federal Constitution, but the stay laws were to put the coercion on the creditor which was necessary to make the system work. Gouge quoted from somebody else a description of a similar period when "creditors were seen running away from their debtors and debtors pursuing them in triumph and paying them without mercy."

A supplementary act was passed, December 22, 1820, by which the issue of the Bank of the Commonwealth was extended to $3 millions and the limit of single loans to $2,000. Property mortgaged to it and sold under foreclosure might be redeemed in two years, at ten per cent. advance; notes under $1 might be issued; special officers were appointed to sign them. Debts to this bank were made preferred debts, to be paid first, by executors and administrators. This provision was held valid and enforced in a case in 1829.†

In connection with the establishment of the Bank of the Commonwealth

* 20 Niles, 241.

† 2 J. J. Marshall, 79.

of Kentucky, the stay laws were advanced still another stage. If the creditor endorsed the writ that notes of the Bank of Kentucky or of the Bank of the Commonwealth might be received, the replevin was three months; if there was no endorsement, it was two years. This act was not to apply to executions on replevin bonds, but it was to apply to executions which were in the hands of the Sheriff when it was passed. On an original judgment, if the debtor did not avail himself of the replevin, a sale was made at two years' credit, the bond of the buyer being taken. In an execution on a replevin bond, if the above mentioned notes were not endorsed, the replevin was for one year, or there was a sale on one year's credit. Recognizances were to be employed as before. This act was to be enforced from March 1, 1821, when the existing law would expire.

December 26th, the charter of the Bank of Kentucky was extended to 1829, with some new limitations. The stock of the State was to be paid over to the Bank of the Commonwealth in three annual installments, beginning December 31, 1824. At the next session, all laws by which the State was to buy or pay for stock in the Bank of Kentucky were repealed. Imprisonment for debt was abolished, and equitable interests were made liable to execution.

The Bank of the United States applied to the Federal Court at Lexington, Kentucky, in 1822, to instruct the clerk to issue on application the writ of *ca. sa.*, the law of the State abolishing the writ notwithstanding.*

The "Union" of Washington, Kentucky,† said in March, 1822, that the circulating medium seemed about to cease to circulate. In the previous winter it had been understood that the Bank of the Commonwealth was not to put out any more paper, and that its issues would be regularly withdrawn, on the theory that its only intention was to secure for the debtors a delay of a year or two that they might be able to save the property which they had pledged. This expectation had caused the exchange to rise, although returns on the exports had not begun to come in. The "relief" had been given to all who were solvent. The Legislature, however, increased the issue. Those who had property would no longer sell it for the notes. If the notes were not restored to value, there would be no currency at all.

This complaint lasted through the year. In October the "Louisville Public Advertiser" argued that there was less money, in value, in circulation than ever before; as follows: "When the paper of the old Bank of Kentucky was nearly as good as specie, it had bills in circulation to the amount of two million and a-half, which was barely sufficient for the purposes of trade, and this bank now has in its vault as large an amount in the bills of the Bank of the Commonwealth as those of its own in circulation. The whole issue of the new bank amounts to $2.3 millions; but as, in the present rate of exchange and price of commodities, this amount only does the business of $1,150,000, the real circulating medium has been reduced nearly one-half."‡

* 22 Niles, 291. † Quoted 22 Niles, 116. ‡ 23 Niles, 162.

In 1822 the Legislature used its power in the election of State directors of the old Bank of Kentucky to put in "relief" men who would make that bank accept Commonwealth notes. The effect was that the stock of the old bank at once fell to fifty and this was its death blow.* In October, 1822, a specie dollar was worth $2.05 in Commonwealth notes.†

The power of the Bank of Kentucky to discount notes and bills was repealed December 5, 1822, and it was ordered to wind up. Its notes were to be burned. The Bank of Kentucky and the Bank of the Commonwealth were to exchange notes with each other. The Auditor was to inform the president of the Bank of the Commonwealth of the amount of revenue in his hands from the lands, the sales of which had been appropriated to that bank; notes of the bank were to be burned, equal to this revenue, and also all notes paid in the cancellation of loans. In February, June and November, similar burnings were to take place, equal to the same income, but not to exceed $750,000 before the next meeting of the Legislature. In another act it was recited that the notes of the Bank of Kentucky and the Bank of the Commonwealth were so dirty and worn that lists could not be made of them, by letter and number, as required by law; therefore the president and directors were to make lists, showing the amount of each denomination burned and the aggregate of each class.

At the session of the Legislature in 1822-3, evidence of trouble with the Bank of the Commonwealth already appears. A resolution was passed November 26, 1822, ordering that the Bank of the Commonwealth should call up only one per cent. per month of its loans, instead of two per cent., which it was demanding, and a committee was appointed to examine the bank. Under the replevin law, the Judges instructed the jury to find "scaling verdicts," rating the judgment sum in specie according to the depreciation at the time of the contract. This sum could be collected after two years, unless the creditor endorsed the execution. If he did that, he obtained payment in three months in paper worth about fifty cents on the dollar,—that is, he obtained about one-fourth of his original claim.‡

One chief reason of the great interest attaching to the history of Kentucky at this period is the number of great and important elements which became combined in it. The Kentuckians had been the strongest anti-federalists. It was they who, in 1798, had been used by the great Virginians to enounce doctrines of State rights which the latter dared not utter themselves. Until Louisiana was bought Kentucky had been more than lukewarm to the Union. The Legislature, as early as 1796, had been at war with the judiciary; had tried judge breaking and legislating judges out of office. They had shown their respect for vested rights by revoking a pension to Judge Muter after securing his resignation by granting it. In the midst of the history with which we are now occupied, in 1821, the Supreme Court of the United States decided the case of Green *versus* Biddle, which

* Collins, 89. † 23 Niles, 96. ‡ Lexington "Reporter," quoted 24 Niles, 391.

touched the people of Kentucky to the quick. The man in occupation of land was a voter, neighbor, friend, relative. By the carelessness of Virginia and of the settlers the titles were often disputed. The Legislature represented the occupiers. The public men sought the favor of the same. An occupier, if ousted, presented a real object of commiseration, for he had lost the labor of years. Still the law, right, and justice of the case might be all against him, and his troubles might be all his own fault.

The laws of Kentucky, for twenty-five years, aimed to enlarge the rights of the occupying claimant against the successful contestant.

In Green *versus* Biddle those laws were declared void because they were in violation of the compact with Virginia at the separation. All efforts were exhausted to get a reversal of this decision. In Bodley *versus* Gaither (1825), the Supreme Court of the State refused to be controlled by the decision in Green *versus* Biddle.* Inasmuch as the Supreme Court of the United States, in Hawkins *versus* Barney's Lessee (1831),† very materially modified the ruling in Green *versus* Biddle, the Kentucky State rights men could claim to have been the champions of justice, truth, and right. The connection between the stay laws and the banking system has already been shown.

The Kentuckians were alarmed at the course of the decisions of the Supreme Court of the United States. They anticipated the effect on their bank and relief system, and they went to meet the inferences hostile to their pet measures, which seemed to flow directly from the law as expounded. Thus a clash between the Legislature and the judiciary, and another between the federal and State authorities, lay in the relief system of Kentucky.

This subject, in all its length and breadth, was opened by R. M. Johnson in the Senate of the United States, January 14, 1822. The document is, like many others which were prepared in Kentucky at this time, and in connection with these measures, very ably written. It must have been prepared with great care in advance, so that its origin goes back to some time early in 1821, and soon after the decision in Green *versus* Biddle. On the points which now most immediately interest us he said: "I know of no clause in the federal Constitution that gives the power to the judiciary of declaring the laws and Constitution of a State repugnant to the Constitution of the United States and therefore null and void." "No State shall emit bills of credit. This prohibition has not yet produced collision, but it is fairly to be presumed from the principles established by other acts of adjudication that, if the measures of certain States relative to banks were brought before the Courts of the United States, they would be declared unconstitutional and void, nor would it be any matter of surprise should the supreme judiciary yet, by such a decision, obtain control over the policy of a whole community, relative to a circulating medium for any special and necessary purposes, though it might not be pretended that such currency was made a legal tender. Kentucky has incorporated a bank for necessary purposes. The crisis of the country

* 3 T. B. Monroe, 58.

† 5 Peters, 457.

demanded it, and the people have sanctioned it with a unanimity almost unparalleled. If the constitutionality of this subject were brought before the federal judiciary, I have little doubt that the law would be declared null and void, and the State, by such a decision of persons neither interested in her policy nor responsible to her citizens, deprived of the power of relief in these times of overwhelming difficulty." No State shall pass any law impairing the obligation of contracts. "The Constitution recognizes a principle of morality founded on justice and religion. * * * Each State is the judge of its own honor and the keeper of its own conscience." "The fund upon which executions shall operate is a regulation of a political character and subject to the absolute control of the Legislature. That fund may be extended or contracted at the will of the State." In 1821 Kentucky abolished imprisonment for debt, but at the same session of the Legislature, extended the prison bounds to the limits of the county, "under a belief that the federal judiciary will declare this law abolishing imprisonment for debt unconstitutional, as impairing the obligation of contracts."

Stay laws, paper money, squatters' rights and State rights had now become intertwined, and acted and reacted on one another, constantly intensifying the popular exasperation against vested rights, creditors, the Bank of the United States, and the federal government.

In a great political debate, in the Senate of the State, in 1838, Wickliffe reviewed all this history in the face of the men who had had part in it. He denied that the Bank of the United States had ruined Kentucky. He referred to the creation and repeal of the forty banks, and to the sacrifice of the Bank of Kentucky to try to bolster up those banks, and then its destruction. "It was this outrage against the rights of contract and the sacred honor of legislators that prostrated Kentucky, and not the Bank of the United States. These mad measures left the country nothing but the Bank of the United States to hang upon. She kept the even tenor of her way. * * * No, sir, it was not the Bank of the United States but independent bank makers, property law makers, judge breakers, and paper money schemers that then ruled and ruined Kentucky."

In no case which we have found, did any Court of any grade, in any State, support the stay laws. The next step in this history, which we have to notice, is a collision between the people of the State of Kentucky represented in the Legislature, and their own judiciary.

Judge Clark decided the case of Williams *vs.* Blair, at the Bourbon Circuit Court, ordering the recognizance of the defendant to be quashed with costs against him, the endorsement act of 1820 being unconstitutional. May 18, 1822, a Committee of the House of Representatives was appointed "to inquire into the decision of [Judge Clark] and report thereon to this House." The preamble recited that the Judge had "given a decision in contravention of the laws of this Commonwealth called the endorsement and replevin laws, and therein has grossly transcended his judicial authority and disregarded the constitutional powers of the Legislature of this Common-

wealth." Three days later the Judge was cited to appear and show cause why he should not be removed from office. May 27th he sent a written answer. He gave a list of cases in which the Supreme Court of the State had ruled acts of the Legislature unconstitutional and argued the necessity and propriety of this power in the Judges, both under the federal and State Constitutions. The vote on the motion to address the Governor to remove the Judge was 59 to 35. "The National Intelligencer," from which the account is taken, says: "The key to the unusual excitement caused by this opinion is to be found in the fact which is stated in the 'Louisville Advertiser' that this opinion of Judge Clark was supposed to have an indirect bearing upon the charter of the Bank of the Commonwealth. A majority of the Senate is said to have been opposed to the proposed removal of the Judge."

Upon appeal, this case of Williams *vs.* Blair, and that of Lapsley *vs.* Brashears came up together and the decision of them formed a crisis in the great drama whose elements had been gathering for eight or ten years.* The records of these cases were burned in the civil war, but the reports state the essential features of them. In the former case, Blair, Ingles, and Barr gave a note to Williams, November 12, 1819, which they did not pay at maturity. He obtained judgment, whereupon, under the stay law, they entered into a recognizance, in the clerk's office, to pay within two years. Williams moved to quash this recognizance, on the ground that the law was unconstitutional. He won as above stated. The decision, on appeal, was rendered by Judge Boyle, October 8, 1823, as follows: "A law passed after a contract is made, extending the term of replevin on a judgment rendered on such contract impairs the obligation of the contract, and violates the Constitution of the United States."

The case of Lapsley was argued on both sides by the leading public men of the two political parties, which were now forming in the State, upon the issue of the relief system; Harrison, Breckenridge, and Wickliffe for Lapsley; Haggin, Barry, and Rowan for Brashears.

The story of this latter case is worth telling at length, as an illustration of the relief system. Brashears was indebted to Lapsley on a contract. Lapsley got judgment for the debt, with interest from March 1, 1815. Brashears was imprisoned for the debt and then allowed the liberty of the prison rules on a bond, with Barr as surety. He broke the rules. Lapsley brought suit against him and his surety on the bond, and got judgment, January, 1816. Soon after this Lapsley died. His administrator, also named Lapsley, got judgment to have execution in January, 1817. A *fieri facias* was issued April 23d. June 17th, the defendants and an additional surety executed a replevin bond to pay within twelve months, and the sheriff returned the writ endorsed to that effect. The bond was lodged with the clerk of the Court. August 15, 1818, a *fieri facias* was issued to the sergeant

* 4 Littell, 34; 57.

of the Court of Appeals on the replevin bond, but it was returned "stayed by injunction." September 25th, the injunction was dissolved. October 12, 1821, a new *fieri facias* was issued on the replevin bond. October 23, 1822, the three defendants, bringing in now another surety, as was necessary at every step, executed another replevin bond to pay in two years, under the endorsement law of 1820. The sheriff made return accordingly. In January, 1823, Lapsley moved to quash this replevin bond and the return. This motion was overruled; both sides appealed. October, 1823, the Court of Appeals heid that the endorsement law was unconstitutional, and remanded the case to the Circuit Court for reversal and disposition, in accordance with this decision. Here we lose sight of the case, after eight and a-half years of litigation, and are left to wonder whether Lapsley ever got his money.

It was because the defendant in this case was frustrated in the course of action which he was pursuing to escape an adjudicated debt that the relief orators were so alarmed about rights and justice, and so vehement in their denunciation of the judiciary and of "judge-made" law.

It is significant of the entanglement of this question with the other great political and social questions of the time that, in a petition for a new trial, although the whole matter was a case of debt in a State court, Bibb enlarged upon the danger that diminution of the power of the States would make a consolidated government, which, in so vast a territory as that of the United States, would be inconsistent with the existence of a free republic.

Instead of producing acquiescence and a settlement of pending controversies, this decision became the starting point of a political struggle which lasted for seven or eight years, and was marked by the bitterest and most malignant passion. Indeed a direct train of consequences may be traced far down into the history of the politics and constitutional law of the federal government. The proceedings of the Court were regarded, by about half of the people of Kentucky, as a usurpation by the Judges.

Governor Adair, in his message of that year, approved of the relief system and denounced the courts for deciding the replevin laws unconstitutional. After his term expired, he petitioned for redress on account of the payment of his salary in depreciated paper.*

At the following session of the Legislature, the all absorbing topic was the decision of the Court in these cases. December 29, 1823, a long document was adopted,† containing an argument against the right of the Courts to declare laws unconstitutional. It went deeply into the metaphysics of obligation, the old subtleties of distributive and commutative justice, the social compact, and the laws of nature; then followed an argument against the decision. Of the Bank of the United States it was said: "Its motto is, 'Pay me that thou owest me.'" "A rigid punctuality (but ill according with the agricultural habits and varying condition and resources of most of the States) is exacted by that institution." The decision means

* 27 Niles, 288.

† Session laws of 1823-4, 448.

that the existing remedy is binding on the State and the debtor, but not on the creditor. Hence the Legislature protests against the doctrines of the decisions, "as ruinous in their practical effects to the good people of this Commonwealth, and subversive of their dearest and most invaluable political rights." The decisions are then declared erroneous. The Legislature will take no steps to interfere with the administration of justice; but Kentucky will not submit to judicial tyranny.* A protest is then uttered against Green *vs.* Biddle and it is declared that a protest ought to be sent to Congress, and that such an organization of the Supreme Court ought to be secured, that no State law could be declared unconstitutional without a two-thirds majority of the Judges. A remonstrance and memorial to Congress of this character was later adopted. Thus we find, at this point, the stay laws, the banks and the squatters' rights all commingled.

In 1824, the Court of Appeals decided that a remedy which was applicable to a note for the payment of money could not be given for a note "payable in the money of this State," which was held to mean the current paper money; but bank notes are not money.†

January 5th, of that year, the Judges were ordered not to scale debts for contracts in notes of the Bank of Kentucky or the Bank of the Commonwealth, but judgment was to be given in the paper. If the plaintiff endorsed this paper on the execution, the replevin was to be only three months. The Court of Appeals, construing this law, held that it did not apply to any contract made before its passage, no matter when the action was begun, and that the Court could not take judicial notice of the value of the notes of the Bank of the Commonwealth on any particular date.‡ It was also decided, in another case, that bank paper was not money, nor an ultimate measure of value, the point at issue being whether it could be sold without imputation of usury.§

All the two year replevin laws were repealed January 7, 1824, to take effect from June 1st following. Replevin after that was to be for three months, and if no bond was given, the sale was to be on credit for three months. The date of the contract was to be on the judgment. Real estate in execution was to be valued by the county commissioners in gold and silver. On the same day, the Bank of the Commonwealth was ordered to continue its calls at one per cent. per month. All its notes and those of the Bank of Kentucky were to be called in from the branches and held subject to the order of the Legislature. Officers of the Bank of the Commonwealth were to be called on to pay their loans, like other debtors. Three years from this date were allowed for the independent banks to wind up,

* The Legislature of Georgia passed joint resolutions, November 29, 1815, denouncing the Judges of the Superior Court for having passed, in the previous January, on the constitutionality of State laws. It was declared that if the Legislature yielded to this action, "it would be an abandonment of the dearest rights and liberties of the people." They will take no further step, hoping that this condemnation will suffice.

† 5 Littell, 335.

‡ 5 T. B. Monroe, 336 (1827).

§ 1 J. J. Marshall, 47 (1829).

provided they would endorse on writs to collect their loans that they would receive Commonwealth notes. One point in the endorsement law of December 25, 1820, which provided that no fee bill should be put in execution within two years after it became due, unless endorsed to receive Bank of Kentucky and Commonwealth notes, remained in effect until February 22, 1834.

December 6, 1824, the Legislature appointed a Committee of Investigation to find out the character of the debts to the Bank of the Commonwealth, and report how many of them were bad. They also stated in their resolution that some directors of the Bank had not complied with the law to pay their debts to it.

At the State election of 1824, the struggle was to elect a Legislature, two-thirds of which would address the Governor for the removal of the Judges who had decided the relief laws unconstitutional. A majority was obtained, but not two-thirds.

Another course was therefore adopted. November 13, 1824, a select committee on the behavior of the Judges was raised, which made an elaborate report to the effect that the Legislature ought to be supreme, and ought not to be ruled by the judiciary. Resolutions were reported that the decision under review encroached on the field of the Legislature and the rights of the people.* This led up to a law of December 24th, by which all the laws organizing the Court of Appeals were repealed, and a new court was organized.

The old court denied the constitutionality of the repeal and of the new court, and continued its existence; so that there were two courts. The new court ordered Achilles Sneed, clerk of the old court, to deliver the records to Francis P. Blair, clerk of the new court. Upon Sneed's refusal, he was fined and his papers were seized. A war of vituperative pamphlets ensued. It is said that Blair and Kendall were amongst the pamphleteers on the new court side. Kendall had described the relief system very justly in 1821.† His biographer says that he never doubted the constitutionality of the relief measures, and so was driven to defend them. As a director of the Bank of the Commonwealth, he insisted on a conservative policy in that institution.‡ There is a gap in his autobiography from 1823 to 1829, and it is unfortunately impossible to trace the influences which moulded his feelings and opinions. All the leading men on the new court side imbibed the intensest animosity against the Bank of the United States, Blair and Kendall perhaps more than any others.

When Kendall went to Washington, in 1829, he became responsible for a positive and circumstantial assertion that the Bank of the United States gave pecuniary aid to the old court party in the election of 1825; which statement became of the very first importance in the Bank war. When Kendall was called on for his proofs, he could only repeat the assertion from hearsay, but

* Session Laws of 1824-5, 221. † Kendall's Autobiography, 246. ‡ Democratic Review, March, 1838.

could not produce the responsible authors of it.* Nevertheless, the story was often repeated, and the "Globe," in 1831, re-printed it in its original form.†

The new court held the records during 1825 by military force, and civil war was avoided only by the moderation of the old court.‡

In November, 1825, Niles quotes a Kentucky paper that more people had left the State than had come to it for many years. It is plain that two classes of persons were driven away by the relief system,—those who were prevented by it from securing such fruits of their industry as they could accumulate, and those who despaired of ever freeing themselves from their embarrassments.

In the mean time the federal Supreme Court had gone on its way making decisions which established the authority of the federal Constitution and the federal judiciary and so integrated the whole national system. Of these decisions, one which was rendered in 1825, Bank of the United States *versus* Halstead,§ directly affected Kentucky. It was held that the federal courts could alter the forms of execution which were in use in the States in 1789, so as to subject to execution lands and other property not then subject, and that the law of Kentucky of 1821 did not apply to writs issued from the federal courts.‖

These decisions were all received with astonishment, contempt and abhorrence, not only by the radical, but also by the moderate State rights men of the time. There was a great deal of declamation in Kentucky in 1825 about rights, liberty, justice, and the sovereignty of the people; but as the "Lexington Reporter" said: What a mockery to talk of justice, freedom, and happiness when the Constitution was brought to the level of such legislative acts as had been adopted by the relief party.¶

The concurrent effect of the distress in the State, the sad position of the debtors, the political animosity which had been aroused, and the anxiety about great principles of constitutional liberty which had been caused by the judicial decisions which have been referred to, was, to make the political campaign between the old and new court parties in 1825 exceedingly intense. The old court party won a majority in the lower House. The Senate which held over was still of the new court party. A crisis had therefore been reached, but it could not be solved for the time being, because neither party was in a position to win a victory.

The message of Governor Desha** of November 7th, 1825,†† reflects all the elements of excitement and warfare which were in the situation. "The most prominent objects," he says, "which will arrest your attention are the

* 42 Niles, 315.

† See page 193.

‡ Collins, 105.

§ 10 Wheaton, 51.

‖ It was ordered by act of Congress, May 19, 1828, that the forms of writs and proceedings in executions in the federal courts should be the same as then were used in the State courts, in the State in which the proceedings were held.

¶ 24 Niles, 391 (1823).

** This is the gentleman mentioned above, p. 52.

†† 29 Niles, 219.

existing differences in our judiciary and the encroachments of the federal tribunals." Two branches of the Bank of the United States have been established in the State without due consideration of the interests of the people, who "justly alarmed for the rights of the State and the purity of their republican institutions" want these banks removed or taxed. "But the Judges of the federal Court, assuming to themselves the prerogative of restricting the taxing power of this State" forbade this tax, and the State judiciary, although they thought the Bank of the United States unconstitutional and the tax constitutional, have yielded to the Supreme Court of the United States. "Since this surrender of the acknowledged rights of the State by those who were made their special guardians, the branches of the United States Bank, exempt from the burdens imposed on the wealth of our own citizens, have proceeded to purchase up the real property of the country and fill it with tenantry." [It was never ascertained what facts he meant to refer to by this statement.] "These institutions for a series of years have carried on a systematic attack upon the legislative power of the State for the double purpose of curtailing the sphere of its exercise and rendering themselves wholly independent of its authority." He refers to the relief laws as "statutes whose principles have been sanctioned by all authorities, State and federal, from the date of the Constitution down to the establishment of these institutions" [the branches of the Bank of the United States]. They and their friends have attacked these laws. The State Court of Appeals has declared them unconstitutional, and the federal Supreme Court has decided that if they were constitutional, they were not binding on the federal court. "And the federal Judges for the Kentucky district have actually made their code, and put it into operation, by which our citizens are imprisoned in direct violation of our laws, and their property seized and sold in modes not provided in their statute book." This is "nothing short of despotism." The federal courts have made the Bank of the United States independent of State laws and tribunals. "The wrongs suffered by this State from the decision of the Supreme Court of the United States declaring our occupants' law to be unconstitutional have not been redressed." "It is my firm belief that in the insecurity now felt by numberless cultivators of our soil may be found the chief cause of that extensive emigration which is now thinning the population of some of the finest sections of our State." "The doctrine of our late Court of Appeals that an opinion of the Supreme Court of the United States on subjects involving the rights of the State is binding and conclusive upon the State authorities is believed to be not only erroneous but fatal to the sovereignty of the States." The Supreme Court is a part of the general government whose encroachments are complained of. The States can get no more justice, therefore, than an individual could, if judged by his oppressors. The new court of the State has banished "the doctrine of ready submission to the unconstitutional decrees of the Supreme Court." What Kentucky wants is another reformation of the federal judiciary, such as occurred at Jefferson's accession. The relief laws

have been repealed "as to all contracts formed after the repeal, and their operation has almost ceased to be felt in our courts of justice; but the questions of legislative power and judicial right, which have sprung from some of those laws and outlived them, are of vital importance to the government as well of this State as of every other in the Union." Virginia had a law like the replevin law in 1789 and re-enacted it afterwards several times, even after Kentucky became an independent State. Kentucky has practiced on the same principle and the principle has never been wholly eradicated from her laws. The constitutionality of these laws "seems never to have been doubted until the interest of the United States Bank made it necessary that new and more rigid principles should be incorporated into our system of government." The decision of the State court "that the remedial law in existence when a contract is made, constitutes the obligation, and that no State Legislature can so change that law as to delay the remedy" has "wrested from the representatives of the people the power to suspend the operation of the laws in any case of contract even in time of insurrection, war, pestilence, or famine." He justifies the act legislating the old court out of office in order to "rid the country of these erroneous and dangerous principles," including the notion that the Judges could not be called to account. The old court has gone on, but without any breach of the peace; hence the Executive has not thought it his duty to molest them. Lately they have shown a disposition to force the execution of their orders. If they do this the writer will perform his painful duty. "Instead of quieting the country as was ardently desired, the act of the last session re-organizing the Court of Appeals, together with other causes made to operate, has filled it with new agitations." The people are dissatisfied with the re-organizing act. Neither the old nor the new court can unite upon themselves the confidence of both parties or exercise judicial power without doubt as to the validity of their acts. If the Legislature sees fit to provide for the appointment of an entirely new set of appellate judges, he will select them equally from both parties. The salaries should be reduced to $1,500, which by the appreciation of the currency would be equal to $2,000, a year before. The salaries of the officers of the Bank of Kentucky, the Bank of the Commonwealth, and the officers of the Transylvania University should be reduced. The stock of the Bank of Kentucky owned by the State and the profits of the Bank of the Commonwealth are a disposable fund which should be used for turnpike roads and other improvements. The appreciation of the currency has increased the burden of taxes. This should be remedied. The execution laws are in a state of chaos on the statute-book and require revision.

The offer of Desha to constitute a new court equally from the two existing ones, if all the Judges would resign, was due to the fact that the new court was losing ground. The bar of the State was not willing to risk the validity of its decisions.*

* Brown's Address.

At the session of 1825-6, the House voted to abolish the new court; but the Senate, by the casting vote of the Lieutenant-governor, refused to concur.

The bitterness of the parties to this old and new court contest is illustrated by the fact that a three days' argument, shared in by all the leading lawyers of the day, was held upon the application of a gentleman to be admitted to practice in the Woodford Circuit Court, he having been licensed as an attorney by the old court after that court had been legislated out of existence. The Judge did not dare to decide the question, but allowed him to practice out of courtesy.*

After another hotly contested election, in 1826, the old court was in control of both Houses. December 30, 1826, a law was passed over the Governor's veto, "to remove the unconstitutional obstructions which have been thrown in the way of the Court of Appeals." In the preamble it is said: "The above recited acts have been decided by the good people of this Commonwealth at two successive elections, to be dangerous violations of the Constitution, and subversive of the long tried principles upon which experience has demonstrated that the security of life, liberty, and property depends." The two acts erecting the new court and fixing the salaries of the Judges in it were repealed, and all the acts which the new court act had repealed were revived. January 11, 1827, an act was passed to try to bridge over the new court time. The period from November 30, 1824, to April 1, 1827, was to be considered non in the Court of Appeals, and the clerk of the new court was to deliver to the clerk of the old court all papers "in any wise pertaining to the Court of Appeals." The second volume of T. B. Monroe's reports contains the decisions in seventy-seven cases, which have never been cited by the Supreme Court of the State, being the decisions of the new court.

In 1827, the currency of the States in the Mississippi Valley was very much improved. There remained, as was said, only $800,000 of Commonwealth paper out, and this was merchandise, not currency. The bank held notes of individuals to the amount of one and a-half millions and real estate worth $30,592. Hence there was due to it a balance from the public, after all its notes should be paid in, of $600,000.† Its debtors had this to pay in specie or its equivalent, or else the Bank would get their property. No other instance is known in which debtors had to endure so great an appreciation between the time of borrowing and repaying as in the case of this paper money machine. No one has ever explained how any paper money machine could act otherwise unless there should be constant new issues, depreciating more and more until they reached zero. On its paper issue of notes nominally for $3 millions it had won $600,000 worth of property in five years. Who got this gain? It seems that there must have been personal interests at stake to account for the intensity of feeling which was enlisted in its defense, especially on the part of a clique of leading politicians.

* B. F. Buckner's Address to the Kentucky Bar Association. † 31 Niles, 310. *Cf.* also 29 Niles, 229.

No positive evidence has been found as to the course of prices in the State from 1820, but nothing indicates that the issues of the Bank of the Commonwealth raised prices in the interest of debtors. In general, the history of currency in this country shows that the doctrine that prices will respond promptly and proportionately to changes in the amount of the currency (or even, more strictly, of the money of account), cannot be accepted without important limitations.

In 1827, the old court Chief Justice, Boyle, resigned and Bibb, new court, took his place. In 1828 Owsley and Mills, old court, resigned and Governor Metcalf re-appointed them. The Senate, which was then in the hands of the relief party, refused to confirm them. They had been members of the Court which had declared the relief laws unconstitutional in 1823, and this action was an expression of the relentless animosity with which they were pursued by the relief party. Two other anti-relief men, Robertson and Underwood, were appointed and confirmed. Bibb then resigned; whereupon the other two Judges declared the new court acts null and void. In 1829, Robertson was made Chief Justice and Buckner, anti-relief, was appointed, making the Court complete again.

In 1828, the parties were still relief and anti-relief, but the ideas had changed somewhat. The banking and currency parts of the relief creed had sunk out of sight and the political elements remained. A relief man was a State rights man and strict constructionist who wanted to set limits to the supposed encroachments of the federal power, especially the judiciary.

If the amounts of Commonwealth notes reported burned, in Niles' Register, from time to time, during 1823, are added, the total is $2,171,000, although the amount to be burned in that year had been limited by the Legislature to $750,000. In November, 1823, it was reported that the Legislature had resolved to issue no more, and that one-sixth of the total issue had been burned.* The total issue, up to October, 1825, was reported as $2,943,620, of which $1,436,239 were still out.† Notes to the amount of $420,000 were reported as withdrawn, boxed, and sealed by order of the Legislature. The specie and specie funds of the bank were $16,000. The amount ordered burned by the Legislature, from year to year, by the resolutions which are to be found in the Session Laws from 1825 to 1834, is $1,775,414. The last order is that all which is taken in shall be burned. In 1828, on the other hand, the Legislature allowed $1,000 of the notes of this Bank to be taken from the Treasury by the Cumberland Hospital to pay for new buildings. The note in Briscoe's case was made in 1830, so that the Bank must have been doing business then. By an act of that year, January 29th, the president and directors were ordered to withdraw branches which did not pay, which had been mismanaged, and which the interests of the State required should be withdrawn. An agent was to go to such branches and do the business, including the renewal of notes half-yearly. If the

* 25 Niles, 195. † 29 Niles, 229.

renewal was neglected for sixty days, suit was to be brought. Semi-annual reports by the branches to the head office were to be required. All debts were to be called in, so as to be paid by June 1, 1834. No renewal was to be made without security, and no new loans were to be made under any pretense whatever. Salaries were to be paid in Commonwealth notes. All receivers for the Bank were to pay to it the same paper which they received, or other of equal value. In that year, several branches of the Bank of the Commonwealth were broken open and notes were stolen.* January 15, 1831, the agents of the Bank of the Commonwealth were to take oath that they were complying with the requirement to pay to the bank the currency received by them.

In 1831, a new Commonwealth Bank was projected. A later generation of debtors did not see why the State should not repeat on their behalf what it had done for those of 1820.†

In 1833, and again in 1837, the bank was required to credit the Treasurer with the amount which he owed to it, and in the last year it was enacted that "the said bank shall hereafter redeem all its notes in specie, as well when presented by the Treasury as other persons."

The counsel for the bank, in Briscoe's case, declared that there were not over $40,000 of its notes outstanding, and that perhaps that amount had been lost. In 1834, an official report showed $56,843 outstanding, and notes of the Bank of Kentucky to the amount of $31,081.‡ The former were quoted at Philadelphia in 1830 at thirty-five discount; the latter at twenty-five discount. In 1835, the corresponding quotations were Commonwealth, sixteen discount; Bank of Kentucky, thirteen discount. The sales of land, at this time, had absorbed them to such an extent as to raise their value.§

This means, as the net final result of this financial device, that the State had given to the debtors of 1820 its lands with which to pay their debts; or, more strictly, that it had tried to do so, and, in the attempt, had lost its lands to such persons as were in a position to take advantage of the opportunities offered them, during the fifteen years in which the process was going on, to win gain from it. It is not impossible that here and there a debtor who was extraordinarily shrewd and hard-headed may have availed himself of the relief system successfully, but the number of such must have been very small. In all the cases of relief attempted by big paper money machines the advantage was won by influential individuals who got the management of the undertaking into their hands and turned it to their own profit.

It may be said, almost without limitation, that all paper money issues and stay laws for the relief of debtors have had, as their sole result, to curse debtors with life-long poverty, misery, and debt; and further, that, in the history of this country, "relief" has been the word of the most direful omen to those-who-have-not that the dictionary contains.

* 28 Niles, 137. † 39 Niles, 463. ‡ Treasury Report, January 4, 1837, 163.
§ Elliot's Funding, 1120.

A law of February 10, 1845, provided for an audit of the accounts of the president of the Bank of the Commonwealth, and he was called on to report the best means of realizing something from the unavailable debts to the bank.

The agent of the old Bank of Kentucky was directed, February 21, 1846, to hand over all the papers and books of that bank to the first Auditor, with $28,209.74 cash which he seems to have; or the Attorney-general is ordered to sue him. The first Auditor is to audit and settle the accounts, put the money in the Treasury, and draw on it for dividends to the stockholders. He is to carry on the liquidation, redeem the notes, and burn them. The president of the Bank of the Commonwealth is to hand over all papers and money to the first Auditor, who is to audit and settle. He is made president of both banks, and the Commissioners of the Sinking Fund are appointed directors for the purposes of liquidation.

Successive acts continuing the liquidation of the old Bank of Kentucky, the independent banks, and the Bank of the Commonwealth were passed every few years until the civil war. In 1855, commissioners were appointed to find out the facts about the liquidation of the first mentioned, since 1836, and to report its status at the time of the act. It was characteristic of all banks of this kind that their liquidation was interminable.

If the following table of the statistics of the bank note circulation of Kentucky is compared with the above history it will be found that the fluctuations in the composition and total amount of that circulation present phenomena in the history of currency more interesting and instructive than any other similar data which can be found. The case is unique for the study of currency. The table is taken from the document, 26 Cong. 1 Sess. V Exec. No. 172, p. 1354. The figures present millions and decimals thereof. Variations may be noticed between the figures here given and some which occur above and which are taken from other authorities. All statistics of that region and period must be taken with some latitude, which, however, does not affect the value of these figures for purposes of illustration:

YEAR.	Total.	Bank of Kentucky.	Branches of U. S. Bank.	Bank Commonwealth.	New Bank of Kentucky.
1810	$0.124				
1811	0.161				
1812	0.289				
1813	0.501				
1814	0.576				
1815	1.2				
1816	1.9				
1817	1.5				
1818	1.9	1.2	0.64		
1819	1.6*	0.6	0.63		
1820	1.5	1.3	0.28		

* Including $400,000 allowed for the independent banks.

TABLE.—Continued.

YEAR.	Total.	Bank of Kentucky.	Branches of U. S. Bank.	Bank Commonwealth.	New Bank of Kentucky.
1821	$3.8	1.2	0.20		
1822	3.5	0.9	0.19	2.4	
1823	2.2	0.48	0.18	2.3	
1824	2.3	0.40	0.18	1.7	
1825	1.5	0.11	0.17	1.3	
1826	1.3	0.083	0.25	0.9	
1827	1.3	0.058	0.67	0.6	
1828	1.7	0.041	1.3	0.3	
1829	2.8	0.038	2.4	0.3	
1830	3.2	0.033	2.8	0.3	
1831	3.7	0.032	3.5	0.2	
1832	4.3		4.1	0.13	
1833	3.8		3.7	0.10	
1834	3.3		2.9	0.05	0.3
1835	5.7		3.1		2.6
1836	4.1				4.1
1837	3.4				3.4

It seems best to introduce here a notice of the litigation which arose in connection with the Bank of the Commonwealth and bills of credit, although we shall be compelled, in so doing, to anticipate several years. The decision in Briscoe's case fell in the midst of important events which have not yet been narrated, and it is an especially important fact in regard to it that it was not rendered until several States had been committed to the great Bank of the State policy beyond what would appear from our history so far as it has yet advanced.

In the Bank of the Commonwealth of Kentucky *vs.* Wistar *et al.* (1829)* the Supreme Court of the United States held that the bank must pay specie on demand in return for a deposit which had been made with it of its own notes, although these notes were, when deposited, worth only 50 cents on $1. It had been provided in the act establishing the bank that it should pay specie. The bank tried to plead the non-suability of a State, but it was held that if the State was the sole owner of the bank, and issued as a sovereign, it would be non-suable; then, however, the notes would be bills of credit. If the State issued as a banker, not a sovereign, then it was suable under the decision in the case of the Bank of the United States *vs.* the Planters' Bank of Georgia.

In Craig *vs.* Missouri (1830)† the law of Missouri of 1821 establishing loan offices‡ was declared unconstitutional with respect to the notes issued, which were bills of credit. It was held that "to emit bills of credit conveys to the

* 2 Peters, 318. † 4 Peters, 410. ‡ See page 161.

mind the idea of issuing paper intended to circulate through the community for its ordinary purposes as money; which paper is redeemable at a future day." "If the prohibition means anything, if the words are not empty sounds, it must comprehend the emission of any paper medium by a State government for the purposes of common circulation." Bills of credit and legal tender laws were declared to be the objects of two separate and independent prohibitions.

The case, however, through which the Bank of the Commonwealth of Kentucky obtained national importance and effected the whole law of banking in this country was that of Briscoe *vs.* the Bank of the Commonwealth of Kentucky.* Briscoe and others gave a note in 1830 which they did not pay at maturity. In the State Circuit Court Briscoe pleaded "no consideration," on the ground that the note was given for a loan of notes of the Bank of the Commonwealth, which were "bills of credit" within the prohibition of the Constitution and therefore of no value. The State Court found for the bank. The Supreme Court of the State had held, in 1822, that,—no consideration because bills of credit,—was not a good defense on a suit.† The State Court of Appeals affirmed the decision in Briscoe's case. The case was carried to the Supreme Court of the United States on a writ of error. Two of the seven judges were absent in 1834. Of the five who heard the argument in Briscoe's case, three thought that the notes of the Bank of the Commonwealth were bills of credit under the decision in Craig *vs.* Missouri; but there was not a majority of the whole Court who concurred in this opinion. The rule of the Court was not to pronounce a State law invalid for unconstitutionality unless a majority of the whole Court should concur; hence no decision was rendered.

The Circuit Court of Mercer County, Kentucky, decided, in 1834, under the decision in Craig *vs.* Missouri, that the notes of the Bank of the Commonwealth were bills of credit.‡

Judge Johnson died in 1834. Duvall resigned in January, 1835. Wayne took his seat January 14th, 1835.§ Hence there was one vacancy in 1835 and Briscoe's case went over. Marshall died July 6th, 1835. In 1836 there were only five Judges on the bench of the Court. Taney was confirmed March 15th, 1836, as Chief Justice, and P. P. Barbour‖ was confirmed the same day. This made the Court complete again. Five of the seven Judges were now Jackson's appointees.

Briscoe's case was decided in January, 1837. The decision was by McLean, who had dissented in Craig *vs.* Missouri. It was held that a bill of credit "is a paper issued by the sovereign power containing a pledge of its faith and designed to circulate as money." "The act incorporating the Bank of the Commonwealth was a constitutional exercise of power, by the State of Kentucky, and the notes issued by the bank are not bills of credit, within the meaning of the Constitution of the United States." It is said to

* 8 Peters, 118. † 2 Littell, 333. ‡ 46 Niles, 210. See p. 125 above.
§ See Wayne's comments on Jackson's Message of 1830, page 199. ‖ See page 191.

be very difficult to define bills of credit, as the term is used in the Constitution. "In the early history of banks, it seems that their notes were generally denominated 'bills of credit.'" A bill of credit "which includes all classes of bills of credit emitted by the colonies and States, is a paper issued by the sovereign power, containing a pledge of its faith, and designed to circulate as money." It would be unconstitutional for a State to make any bank notes legal tender. "A State cannot emit bills of credit, or, in other words, it cannot issue that description of paper to answer the purposes of money, which was denominated before the adoption of the Constitution bills of credit; but a State may grant acts of incorporation for the attainment of those objects which are essential to the interests of society. This power is incident to sovereignty, and there is no limitation on its exercise by the States, in respect to the incorporation of banks, in the Constitution." Reference is made to the Bank of North America and the Bank of Massachusetts, as existing when the Constitution was adopted, and it is inferred that bills of credit "do not include ordinary bank notes." Then "it follows that the power to incorporate banks to issue these notes may be exercised by a State." A State could not incorporate a company to coin, because it is forbidden to do so itself; nor could it incorporate a company to issue bills of credit. "To constitute a bill of credit within the Constitution, it must be issued by a State, on the faith of the State, and designed to circulate as money. It must be a paper which circulates on the credit of the State, and so received and used in the ordinary business of life. The individual or committee who issue it must have power to bind the State. They must act as agents, and of course not incur any personal responsibility, nor impart, as individuals, any credit to the paper. These are the leading characteristics of a bill of credit, which a State cannot emit. The notes issued by the Bank of the Commonwealth of Kentucky have not these characteristics."

Story rendered a very strong and vehement dissenting opinion. In it he gave a summary history and analysis of "bills of credit," as they existed before the Revolution, and as they were understood by the Constitution-makers, and he showed what a great variety of them there had been in the use of the colonists from whom the expression was inherited. These notes of the Kentucky bank were, he said, fully under the description. "The history of such a currency constituted the darkest pages in the American annals, and had been written in the ruin of thousands who had staked their property upon the public faith,—always freely given, but too often grossly violated." "It is the substance we are to look to. The question is whether it is issued, and is negotiable, and is designed to circulate as currency. If that is its intent, manifested either on the face of the bill, or on the face of the act, and it is in reality the paper issue of a State, it is within the prohibition of the Constitution." He explicitly referred to the former hearing of the case and said that Marshall had been in the majority against the constitutionality of the issues.*

* 11 Peters, 348.

In a philippic against Guthrie, in the Senate of Kentucky, in 1838, Wickliffe charged him with belonging to a party who once issued $3,000,000 in bills of credit without a dollar to redeem them with. "And it is equally true that a portion of his party raised a pony purse and promised great lawyers $50,000 to have their acts declared unconstitutional and void by the Supreme Court, that they might be thereby released from paying their debts to this Commonwealth's bank."

The decision in this case was a distinct victory for Kentucky relief banking and politics. It opened the door wide for abuses of banking by the States. If the degree of responsibility and independent authority which the directors of the Bank of the Commonwealth of Kentucky possessed (which was really *nil*), and the amount of credit which they gave to the notes, aside from the credit of the State, was sufficient to put those notes outside the prohibition of the Constitution, then no State could find any difficulty in making a device for escaping the constitutional prohibition of bills of credit. Wildcat banking was granted standing ground under the Constitution, and the boast that the constitutional convention had closed and barred the door against the paper money with which the colonies had been cursed, was without foundation.

We have seen, however, that this institution was only a caricature of a bank in any point of view. The great Banks of the States were financially unsound and mistaken, but this is the only one which deserved to be characterized as a shameless fraud. It was devised only to wipe out debts. Its pretenses were all transparently false. The Court was obliged to hold aloof from a real examination of it and to accept all its false pretenses with remote and artificial respect, lest a close and faithful investigation should reveal its rottenness in such a light that it would have been impossible to let it stand. A whole series of decisions has been built upon this case and it has contributed to fasten on the country the federal legal tender law. It would be worth the trouble, on proper occasion, to trace through the cases derived from it, and decided upon it, with reference to the mischievous consequences which have flowed from it.

It is very true that the definition of bills of credit is extremely difficult. No analytical definition has ever been made, which is satisfactory. In fact the Court in this decision labored inconclusively with the analysis, and satisfied itself with an historical definition. Its statement amounts to saying that whatever the Constitution-makers meant by bills of credit is unconstitutional. Now it is entirely beyond question that the antipathy of the Constitution-makers did not attach to the fact that those bills were issued by the State, but to their nature and operation as currency. Their antipathy was equally great against Continental bills of credit, issued by the Confederation, for the same reason; and the notes of the Bank of North America and of the Bank of Massachusetts did not come under this hostile intention because they were regarded as credit instruments of a different character. The term bill of credit, according to its history, was generic and not specific. It meant

any current evidence of an obligation. The Colonies and Congress had issued them under a great variety of forms and of varying tenor, until they carried no language which expressed any legal character at all. "This bill shall be current for one shilling." "One dollar, by resolution of Congress." Even the obligation of the issuer was only assumed and understood. If a member of the Constitutional convention had been asked why he wanted to forbid them, he would have answered that it was because experience had shown that they displaced specie; became the money of account; were in fact forced on everybody's acceptance, as the only medium of exchange; were liable to political control; in short, that they usurped the functions of money and belied every one of those functions so that there was no money. The people lacked all the utilities of money and suffered instead from a political and commercial curse. He would have said that if bills of credit bore interest, they would not circulate. Hence the prohibition did not touch State bonds, and that, if they were cash specie obligations for value promptly enforceable at law, all their evil features would disappear. He would have said that bank notes were of the latter character. The history of the following fifty years showed that the Constitution-makers placed too much confidence in this latter distinction. Unless the cash specie obligation, promptly enforceable at law, was an established actuality in the fullest sense of the words, the bank notes reproduced all the evils of the colonial bills of credit. The discriminations, therefore, presented by Briscoe's case were not really difficult. The distinction between a legitimate bank note and one which had degenerated into the form of a colonial bill of credit was not difficult, and it would have been an immeasurable benefit to the country to have had that distinction then defined and established. A State which was creating institutions which were issuing notes of the former kind would have been within the Constitution; one which was creating banks whose notes were of the latter kind would have been outside of it.

In a report on the "Exchequer," at the session of 1841-2, Caleb Cushing said: "It seems to be a strange anomaly of the fundamental law; or if not anomaly, then oversight, to provide that a State shall not issue bills of credit by the instrumentality of a natural person called its 'Treasurer,' but may, by means of a legal person called its 'bank;' in other words, that it cannot, and yet that it can, be the derivative source of the issue of bills of credit. Nor does it vary the principle to enact that the bank shall consist in part or in whole of incorporated private stock."

In his annual report for 1861, Secretary Chase said that emissions of bank notes by State banks "certainly fall within the spirit if not within the letter of the constitutional prohibition of the emission of bills of credit by the States."

Our history has shown that there were, at the time of this discussion, a number of large Banks of the States, in regard to which the State feeling was very strong; and also that the passions which had been enlisted on behalf of the Bank of the Commonwealth, in Kentucky, were intense. It

will appear below that the State interest in these institutions before 1837 had been very much extended. In the party politics of the time it was very important to make a decision which should be popular in Kentucky (Clay's State), and also in the other States which were interested in Banks of the State. It seems safe to say that political considerations entered largely into the decision; but it is also true that the educational effect which the current banking system exerted on the minds of the people was discernible on the Bench. As the Court was now strongly Jacksonian, it was a remarkable anomaly that they should have declared the Bank of the Commonwealth of Kentucky constitutional, when their party was assailing the Bank of the United States, on the ground that it was unconstitutional.

The law, so far as the Constitution of the United States prescribed it, was now decided to be that States alone, in the strictest sense, may not issue bills of credit. The United States may; banks, municipalities, associations, and individuals may.

We may now turn our attention to the measures of liquidation and relief adopted by the other States of the Mississippi Valley at this time.

TENNESSEE, fearing the oppression which Kentucky was suffering from the Bank of the United States, laid a tax of $50,000, in 1817, on any one who should engage in banking in the State without the authority of the same. In the following year a petition was addressed to the Bank of the United States by citizens of Nashville, asking it to establish a branch in spite of the law. The reply was that the Bank had ample occupation for all its capital, and that it could more conveniently test the right of a State to tax it elsewhere.*

The banks of this State stopped payment in 1819. Although there was no office of the Bank of the United States in the State, the banks made use of the current excuse for suspension and attributed it to emissaries of the Bank.† No doubt it had transactions there. Senator White said that the people of that State had never been accustomed to the punctuality which the great Bank enforced. Thirty years later it was said of them: "Although the planters are the safest and most infallibly solvent class of customers, it is impossible to induce them to observe punctuality."

An extra session of the Legislature was called in June, 1820, on account of the distress. The Governor recommended a property law, saying that his observation of that of 1809,‡ had led him to believe that such a law, although to be used carefully, might be very beneficial.

In compliance with these recommendations, the Bank of the State of Tennessee (No. II.) was incorporated July 26, 1820, "for the purpose of relieving the distresses of the community and improving the revenue of the State." It was to be established "for and in behalf of the State of Tennessee." Its seat was to be at Nashville, with a branch at Knoxville to

* 4 Follo Finance. 835.

† 16 Niles, 341.

‡ The plaintiff might take the property at two-thirds of a valuation, or it was sold on a credit of one year.

which four-tenths of the capital was appropriated. The president and directors were to be elected by joint ballot of the Legislature from session to session. It was to last until 1843, to issue notes from $1 to $100. Its capital was to be $1 million "in bills payable to order or bearer, all of which shall be emitted on the credit and security of the borrowers, and the whole be warranted by the State," on the income from sales of land "and the ordinary revenue of the State, not otherwise appropriated." It was to be a depository of public money. Loans were to be secured by bills and notes with two or more sureties, or by mortgage, and not to be made for more than one year. No loan might be renewed unless interest was paid in advance, and not more than one-tenth of any loan might be called in when it was due, without sixty days' notice. In case of default, judgment and execution were to follow. The bank was not to owe over $1 million before the next session. Within twenty days after it was ready to start, an agent to make the loans was to be appointed in each county. The notes were receivable for all dues to the State, to colleges, and academies, on account of the public lands, and on account of such lands as had been appropriated to the educational institutions mentioned. In the midst of this act it is provided that no executions shall take place within two years after judgment, unless the writ is endorsed that the notes of this bank will be received as well as the other notes mentioned in previous laws. The loans were to be allotted to the counties in proportion to the State tax of 1819. All sums paid in were to be re-loaned in the same county. The Treasurer of East Tennessee was to issue six per cent. stock at the request of the president of this bank, "on the faith and credit of the funds vested in said bank by this act" up to the maximum amount of $87,500. The Treasurer of West Tennessee was to do the same up to the amount of $162,500. The bank was to pay the interest on these bonds and sell them from time to time at par. Here was a provision which provided for touching some capital at last. No loan was to be over $500; the Legislature was to make rules for the bank. The Nashville Bank or the previous Bank of the State might consolidate with this. A supplementary act, three days later, pledged to the bank the revenue from the State lands to make up its capital. As there had been some difficulty to find any one to take the offices, it was provided that, if no suitable persons in Knoxville would accept the positions, the bank might be set up elsewhere in East Tennessee. The Treasurer of West Tennessee was to furnish money to buy the plates, etc. The bank was to commence by issuing $500,000. The notes were not to be in excess of twice the paid in capital. The power of the Legislature to make rules for the bank was repealed. This act, like the others creating the big Banks of the States, contained obvious incongruities. The old Bank of the State of Tennessee would have nothing to do with this new one.*

This act was passed in the Senate, 13 to 7; in the House, 20 to 19.

* Senator White's Speech, March 24, 1838.

There was very strong opposition to it. General Jackson, Colonel Ward, and others of Davidson County, presented a remonstrance against it. The memorialists object to the bank bill as unconstitutional and inexpedient. They object to the two years' delay, quoting the bill of rights that "right and justice shall be administered without sale, denial, or delay;" also to the provision which makes the "loan office notes a direct tender in discharge of debts due to colleges and academies from our citizens south of Holston and French Broad." As to the "policy of passing the bill under consideration, the undersigned believe that no one can hesitate to pronounce it ruinous of both public and private interests who will give it a careful and impartial investigation." They do not think the distress so severe as to justify this kind of interposition on the part of the Legislature. Paper notes cannot relieve the distress, because they have no solid basis. "It has heretofore been admitted by every judicious political economist who has devoted his attention to the subject that the large emissions of paper from the banks by which the country was inundated have been the most prominent causes of those distresses of which we at present complain. They greatly increased the facilities of borrowing money, gave property a fictitious value, and introduced amongst us every species of extravagance and folly." "It would appear to the undersigned that the poison which generated the disease is here attempted to be administered for its removal." They also made a special objection to any arrangement by which citizens of the State would become debtors to the State and referred to the debts already due from purchasers of State lands as an illustration and warning. "The undersigned feel no small share of surprise that so much sympathy should be indulged for the debtor and none for the creditor. Although there may be some extreme cases that solicit relief, yet it is suggested as the best policy to keep the courts of justice open and accessible to every citizen, and permit those who are involved to extricate themselves by additional industry and economy." They end by citing the oath taken by members of the Legislature and declare that this measure is a violation of that oath.

This memorial was laid upon the table in the Senate 11 to 5, and two members claimed the right to spread upon the record their reasons for voting to lay it on the table. They cite the passage about the oaths of the members as a ground for declaring that the memorial "is extremely exceptionable and indecorous in its terms and language." They add that "one of the distinguished characters who appears to have been actively zealous in producing the above memorial, but a few days since, at the seat of government, and in the presence of some members of the Legislature, in the most indecorous manner stated that any member who voted for it would perjure himself, and that if the law did pass, twelve honest jurymen upon oath would convict those who voted for the measure of perjury."

Although the adjuration to the Legislature to heed their oath is very pointed, and would not probably be put into a similar paper nowadays, there is nothing in the paper which is indecorous in substance or manner.

October 24th, the grand jury of Davidson County begged leave to present their opinion in condemnation of the action of the two old banks in opposing the new Bank of the State, which has a strong capital and all safeguards. "Those banks ought to recollect that they exist by legislative aid and permission. They are barely tolerated by the people whose breath can annihilate them in an instant. They surely forget on what a precipice they stand."*

In May, 1821, the Supreme Court of the State had occasion to pass upon the stay law.† The clerk of the Supreme Court of the second circuit had been requested to issue an execution on a judgment rendered in the Supreme Court, without the endorsement required by the act of 1819. He refused to do so. The Court was moved to order him to grant the execution, disregarding the endorsement law as unconstitutional. The Court said: "Suspension of execution, as directed by these acts of the Legislature now under consideration, is forbidden by the prohibition of tender laws as a direct consequence of the prohibition; also by the interdiction to pass laws impairing the obligation of contracts (suspension of execution being an impairing of such obligation); and furthermore by the declaration that justice and right shall be done without delay in all cases, the process of execution being one sense of the term 'right' which is not to be delayed. We are therefore bound to say that these acts are repugnant to the Constitution and void so far as relates to the suspension of execution, and that execution ought to issue immediately without any such endorsement as the act requires."

Judge Haywood, who read the decision, went on to urge at length that injunctions should issue against creditors who demanded payment in specie for debts contracted in paper. Judge Emmerson, who joined with him in the decision, as above, dissented on this point on grounds not stated. Final decision on this point (which was, as the Judge declared, not before the Court) was reserved until the third judge, Whyte, could decide it. It seems that the presiding Judge must have brought it in only as some consolation to those who supported the endorsement system. There seems to have been peaceful acquiescence in this decision in Tennessee and the relief system there came to an end.

The Bank of the State of Tennessee was far more moderate in its issues than the Bank of the Commonwealth of Kentucky, and the evils which were occasioned by it were by no means so serious.

In 1821-2, legislation is aimed against the banks. The act of November 13, 1821, forbade any bank to sell its specie stock; the penalty for the president was $1,000 fine and imprisonment not exceeding five years. The banks were ordered to resume on the first Monday in April, 1824, or forfeit their charters, except the Bank of the State of Tennessee. They were ordered to settle accounts with each other every three months. November

* 19 Niles, 183.

† Townsend *vs.* Townsend, 1 Peck, 1.

15th, a law was passed to give the holders of notes for less than $100 an execution against the bank, with a process for discovering its property and garnishment against the debtors of the bank. On the same day the Bank of the State was authorized to issue $50,000 in notes under $1, to be distributed amongst the counties in the ratio in which the large notes were distributed. November 8, 1823, the same bank was authorized to issue $25,000 in notes for 50 cents and less. The smallest denomination mentioned is six and a quarter cents. November 27th the resumption law was repealed, and the banks were ordered to pay in specie one-quarter of each note presented between April, 1824, and January, 1825; one-third, between January, 1825, and October, 1825; one-half between that date and July, 1826; and after that, the whole. If the State Bank at Knoxville or the Nashville Bank do not pay specie, they shall be liable to six per cent. damages for delay, unless they agree to the conditions of this act about resumption.

October 23, 1823, a new stay law was passed. Executions were to be endorsed according to the existing law. If the creditor did not do this, three valuers were to be selected from the neighboring householders. If the property did not sell for three-quarters of the valuation, it was to be returned to the defendant. The plaintiff might then sue out another execution. The plaintiff may take slaves at three-quarters of their value, or they are to be returned to the defendant; so of land. This law is not to apply to specific contracts for specie or eastern funds, nor to cases where a bank is the defendant, nor to contracts made after April 1, 1823. It is not known that this law ever was tested, but the relief system in Tennessee is said to have declined even before this time, as above stated.

The following year we find the Bank of the State in full operation; new agencies are appointed in the new counties. December 3, 1825, it was enacted that upon application of any person, with security, to the agent of his county, it shall be the duty of the agent to lend from $10 to $500 from any money he has. When a note is reduced to $50 by payments, it shall not be lawful for the agent to demand the remainder in one payment, but in fractions, as before. In that year the Governor congratulated the State on the prospect of resumption. The premium on silver had fallen in a year from 25 to 4 or 5. "The earnest prayer of all should be that we may never again experience the evils of depreciated bank paper." He was confident that the managers of the banks were striving to resume. In 1826, the Nashville Bank did resume, but $260,000 were drawn from it in seventy days and it failed again, leaving only the Bank of the State. December 11th a law was passed in regard to the Nashville Bank which is so carelessly drawn that it is scarcely intelligible. The sense appears to be that, in order to prevent a depreciation of its notes, they are made receivable for State and college lands, if the college trustees agree, and the Bank of the State is to take them for one-half its loans called in. The notes of the Nashville Bank,

however, fell at once to fifty per cent. discount, and so remained until 1833, when they were quoted at ten per cent.*

The law which had barred out the Bank of the United States was repealed in 1826, and a branch was established at Nashville.

In 1827, the avails of the Bank of the State were constituted a school fund. A peculiar feature of the history of Tennessee was the excessive degree to which the educational organization of the State was entangled with its banking, which also involved an entanglement with its "improvements."

Gov. Carroll, in his message for 1829, said that the Bank of the State ought to be wound up. Within a year it had taken three hundred judgments against debtors, and the Knoxville branch had taken a hundred more. He added that a statement made by the Bank showed that its debtors were paying, in interest, commissions, and charges, from twelve per cent. to twenty-five per cent. for every dollar which they had borrowed of it. It was employing sixty-two agents, at great risk, and cost the State $14,000 per annum. "Our experience furnishes but too much proof of the bad policy of the State's permitting its citizens to become its debtors."

In that year the Bank of the United States had the business of the Valley almost to itself. Judge Catron of Nashville published an address in which he pronounced the crisis a dangerous one on account of the great debt of the people to the Bank of the United States, and the excessive usury everywhere prevailing, namely, from five to ten per cent. per month. He especially warned the people against endorsing for each other.

The cashier of the Bank of the State of Tennessee at Nashville was found short in his accounts in February, 1830, to the amount of seventy or eighty thousand dollars. He refused to give up the books because the deficiency was due to overdrafts by persons whom he would not expose. The charter was amended so that the Legislature should elect the cashier. The total overdrafts by "distinguished persons" were two or three hundred thousand dollars. Lest they should be exposed the matter was hushed up and the cashier was allowed to go.†

The Legislature, however, demanded of the president and directors of the Bank of the State, December 20, 1831, that they should report the defalcation of the cashier and the names of the persons who had made the overdrafts, with the amount, and whether they had settled.

In 1831, the State was draining the life out of the Bank of the State No. II., by exactions for internal improvements, etc. The president and directors were ordered to find out how much money there was in the agencies, and also to find out the county apportionment of the total of it, according to the census of 1830, and to apportion it. The School Commissioners of each county were incorporated in order that they might take and hold it. The county loan agencies were to be discontinued, May 1, 1832.

Senator White said, in 1838, that this bank had been converted into a

* Elliot's Funding, 1117.

† 37 Niles, 427; 38 Niles, 427; 38 Niles, 157; 40 Niles, 62.

specie-paying bank, but that its capital and profits had all been lost, and that the State was trying to recover what it could from the wreck.

OHIO.—February 5, 1819, an act was passed to discipline the banks which did not redeem their notes. Six per cent. damages might be recovered, the evidence being the notes in one's possession. In an execution against a bank, the Sheriff might enter it and seize specie, notes, or books; and if these did not suffice, he might garnishee the debtors of the bank, beginning with the directors or cashier. Bank notes payable on a future day were made unlawful; notes under $1 were forbidden. An act of February 8th made it a misdemeanor to take a bank note at less than its face, the penalty being a fine of not over $500. Any one who should pay away a bank note at a discount might recover the discount in an action at law, and the defendant was to have no stay of execution. It is stated that the grand jurors of the City Court of Cincinnati decided that this act was unconstitutional, and refused to notice violations of it.* It was repealed January 24, 1820. Of twenty-five banks in the State, in 1819, only six or seven were redeeming their notes. They were classified, November, 1819, as seven good, four decent, four middling, and four good for nothing.† The Farmers' and Mechanics' Bank of Cincinnati was believed to have been greatly indebted to the United States before it received a share of the public deposit. It was allowed a permanent deposit of $100,000. "Are we to lose the whole for the benefit of the rag barons? but no cost can be too great if modern banking is destroyed by it."‡

A more stringent and comprehensive law to enforce payment by the banks was passed February 18, 1820. The plaintiff against a bank might declare for money had and received, if over $100, and put the bank notes in evidence if payment had been demanded. He could recover with six per cent. interest, and have an execution as by the previous law. A Sheriff executing a judgment in favor of a bank was to take its notes. When payment was demanded of a bank on its notes, and not given, the cashier was to endorse upon it "payment demanded" with the date; then it bore interest at six per cent. until paid in money of the United States. The cashier must keep a book of record of such refusals, and the person who demanded payment might demand an opportunity to see this book, to verify the entry of his own demand, and might sign an attestation of it. If the cashier refused to do these things, the penalty was ten per cent. on the notes refused. A year later it was enacted, February 2, 1821, that in a suit against a bank, on its notes, real estate might be levied on; either the fee or the equitable interest. After the sheriff has exhausted the goods and chattels, he may levy on lands held in trust for the bank, in which case he may appoint three disinterested persons to find out and report the amount due on the trust deed, putting the parties on oath. If the trustee refuses to deed to the buyer, under the execution, the Court shall award the property with 25 per cent. damages on its value, against the trustee.

* 17 Niles, 84. † 17 Niles, 186. ‡ 16 Niles, 434.

These laws undoubtedly testify to their own inadequacy and failure.

In the Cincinnati City Court, in 1820, the Mayor charged the jury that the Bank of the United States had no power to discount notes, because that power was nowhere in the charter conferred in so many words. The jury found for the defendant accordingly, the Bank being plaintiff.*

The war between the State of Ohio and the Bank of the United States began February 8, 1819, when it was enacted: "Whereas the president and directors of the Bank of the United States have established two offices of discount and deposit in this State, at which they transact banking business, by loaning money and issuing bills in violation of the laws of this State; and whereas divers companies and associations of individuals within this State, unauthorized by law, continue in like manner to do business as bankers, and banks, by loaning money and issuing bills, and by trading in notes and bills; and whereas it is just and necessary that such unlawful banking, while continued, should be subject to the payment of a tax for the support of government;"—if, after the 1st of September, any of these associations continue, they shall be taxed; the United States Bank, $50,000 per annum for each office, and every other company $10,000. On the 15th day of September, in each year, the Auditor is to charge these taxes against the companies, and to make out his warrant to the agent whom he shall choose and appoint to demand payment. In case of default, the agent is to levy on the goods of the Bank or its credit. He is to seize the specie or notes, searching the Bank for them. The officers may be put to oath to disclose where the funds are, and they may be summoned to court and examined, a refusal to answer constituting contempt. Debtors to the banks must pay the State. The agent is to pay the sum collected to the Auditor and he to the Treasurer. The agent is to have, as his remuneration, two per cent. of the specie or notes; five per cent. of goods taken in execution; and if further proceedings are required, ten per cent.

At the September term of the federal Circuit Court, an injunction was obtained forbidding the Auditor to collect the tax under this law. His legal advisors were of the opinion that there were various irregularities in the injunction and in the service of it.

September 17th, John L. Harper, appointed agent of the Auditor, Ralph Osborne, and bearing his warrant, accompanied by two others, entered the office of the branch at Chillicothe, jumped over the counter, took possession of the vault, and demanded whether the cashier was prepared to pay the tax. Upon a negative reply, Harper took from the vault $120,425. Five days later he left on the counter the amount in excess of $100,000. The Governor, upon hearing of this, did all in his power to have the money restored, and offered to give security for it; but could accomplish nothing. "I view," said he, "the transaction in the most odious light, and from my very soul I detest it. * * * I am ashamed it has happened in Ohio."†

* 18 Niles, 399.

† 4 Folio Finance, 903, fg.

The bank suspended operations for a few days.

An injunction was served on Harper while on his way to Columbus, and on Osborne before Harper arrived. The money was deposited with Currie, the State Treasurer.

Harper and Orr, one of his assistants, were arrested by the deputy marshal for a trespass with violence, in taking the tax, and bail was required of each of them to double the amount of the money they had taken. They were put in prison, where they lay, an application for *habeas corpus* having failed, until the following January, when they were released by the federal Circuit Court on the ground that the arrest was irregular.

In the meantime, November 22d, the United States District Judge granted an injunction against any disposition whatever being made of the money. Upon the meeting of the Legislature, Osborne made a report of the proceedings. He was under a *subpœna* to appear in January to answer in a petition for a return of the money, and an injunction.

January 5, 1820, application was made in the federal Circuit Court for an attachment against Osborne and Harper for contempt, in disobeying the injunction of the previous September; but after argument, the Court held the case, on account of the important constitutional questions involved, under advisement until the following September.

In September, a bill was prayed for to enjoin Currie, Sullivan, his successor in office, the Auditor, and his agents, from paying away the money or acting further under the law. This was granted. Currie in his answer stated that he received $98,000 from Harper (the latter having retained his fee); that he had held it separate and unused, and had delivered it to his successor. Sullivan, in his answer, stated that a committee of the House of Representatives had, in January, 1820, seized the moneys in the Treasury. The Court decreed that the identical notes and coins which had been taken from the Bank must be restored to it, and that interest on the specie part, $19,830, must be paid. A perpetual injunction was granted against the collection of any tax in future under the act of Ohio. By an arrangement between counsel, the attachment for contempt was dismissed at the cost of the defendants, and the action of trespass was continued, to be dismissed, at the defendant's cost, if the Supreme Court affirmed the decree.

Sullivan refused to obey the decree, and was imprisoned for contempt. On the third day of his imprisonment, the Court granted a writ of sequestration against all his property. The commissioners under it took from him the key of the Treasury, from which they took the $98,000 and brought it into Court, where it was delivered to the agents of the Bank. The defendants appealed, but it was agreed that the appeal should operate on the $2,000 yet wanting.

We now meet with utterances of the high State rights doctrine from Ohio. A committee of the Legislature made a long report, about January 1, 1821. They proposed acts of compromise with the Bank, and also of outlawry against it. A resolution which they proposed affirming the doctrine

of the resolutions of '98 was passed, 58 to 7; a protest against the action of the Court, 58 to 7; declaring a determination to tax any corporation doing business in Ohio under the authority of the United States, unanimously; protest against the doctrine that the Supreme Court of the United States can decide on the political rights of States, in cases between individuals, 64 to 1; ordering the committee to bring in the bills proposed, 57 to 8.* These resolutions were transmitted to the States. Massachusetts answered that the action of Ohio, if allowed, would defeat the purposes of the law by which the Bank was established.†

January 29, 1821, an act was passed "to withdraw from the Bank of the United States the protection and aid of the laws of this State in certain cases." No sheriff or jailer, after September 1, 1821, is to take any debtor into custody on suit of the Bank of the United States; nor any person committed for offenses against its property, rights, etc. No officer of justice is to take proof of a deed or other instrument to which the Bank of the United States is a party, and no recorder is to receive or record such deeds. No notary is to protest a note payable to that Bank. The penalty on a sheriff or jailer for violating this act is $200 fine; a judge or other magistrate, if he does what is here forbidden, will be guilty of a misdemeanor, and shall be fined not over $500. A disobedient notary shall be removed.

At this point the Legislature seemed disposed to recede; for it was enacted, February 2, 1821, that the State was willing to forego the tax if the Bank would pay four per cent. on the Ohio business profits, and withdraw its suits against the State officers. If it agrees to this, or will withdraw from the State, the Governor is to certify the Auditor, who is to return $90,000, after which the tax shall be $2,500 per annum, or the above percentage of the dividends on the Ohio business. Any one who impedes the Auditor in the discharge of duty laid upon him by law is to be imprisoned not over six months, and fined not over $500.

The Supreme Court of the United States affirmed the decision in Osborne's case, March 19, 1824, except that interest should not be paid on the coin part of the money taken.‡

The law outlawing the Bank of the United States was repealed, January 18, 1826.

The State finances were in a most prosperous state at this time, or would have been so if its cash on hand had had value. The Treasurer reported, 1820, that the balance in the Treasury was $155,147, including $98,000 taken from the Bank of the United States, but the rest was nearly all in uncurrent notes of the banks in the State. He gives a list of them in which appear nearly all the banks of 1816.

In his report for 1821, he reported that he had obtained judgments against a number of the banks of the State, and was trying to find their property. In 1822, at least eight of them were bankrupt. A law of Feb-

* 19 Niles, 339. † 21 Niles, 404. ‡ 9 Wheaton, 739.

ruary 5, 1825, provided that all the banks under the law of February 23, 1816, should be re-invested with the shares which had been set off to the State, if they would pay the State two per cent. on their dividends from their organization until this time, and four per cent. on their dividends for the future, and concede to the State the right to tax them. During the next years these banks were in liquidation. An act of March 3, 1824, provided that the Treasurer might compound and settle all claims of the State against seven or eight of them. In 1831, twenty were reported broken, including our old acquaintances the Banks of New Philadelphia and Owl Creek.*

INDIANA.—January 8, 1818,† interest at six per cent. was imposed on bank notes not paid on demand in specie. Any officer of the bank was to endorse the demand and refusal or be fined the amount of the note, and witnesses might be called in on whose testimony a justice of the peace should endorse.

The Vincennes Bank, acting as a bank of the State, became an object of suspicion and examination in 1821. A joint resolution provided for an investigation, to find out whether the mother bank had issued notes, payable by its branches, without their knowledge. At the following session, in December, the State Treasurer was directed to make a formal demand on that bank and its branches, for payment of their notes in the treasury. If payment was refused, he was to tender to the mother bank at Vincennes the said notes, in payment of the loans of the bank to the State. A week later, a joint resolution was adopted that a *quo warranto* should be brought against the bank for a violation of its charter and the laws, and that if judgment was obtained against the bank, the Governor should appoint three receivers to wind it up. In this suit the bank was found guilty on four points, each of which would work forfeiture. Its debts were more than the legal limit; it had made fraudulent over-issues which it could not redeem; it had made large profits while suspended; deposits left for safe-keeping had been embezzled.‡

The tide now seems to turn against the relief system. January 3, 1822, it was enacted that there should be no execution on replevin bonds. If seven year rents, on being offered for sale, do not bring enough to pay the debt, the land is to be sold. Replevin bonds are to date from the judgment and not from the sale on execution. The jury of freeholders is to consist of five. This last provision was declared unconstitutional. January 11th, the old territorial law was revived, which established a limited stay, varying from thirty days, on a debt of $6, up to one hundred and eighty days on a debt of over $100, and property taken on execution was to be sold for what it would bring.

In a report of the State Treasurer, January 13, 1825, there is returned amongst the liabilities of the State a sum due to the "United States, assignee of the Vincennes Bank," and payments on this account occur in

* Elliot's Funding, 1122. † In the Laws for 1820-21, page 34. ‡ 1 Blackford, 267.

the reports of the following years. This is, no doubt, a debt for a federal deposit in that bank, for which the State found itself liable. There were then $20,000 of treasury notes outstanding. From the forfeiture of the Vincennes Bank, in 1823, until 1834, there was no bank in Indiana. There is no evidence that the State found itself any the worse for the lack. In 1829, we find a law making further provision for the liquidation of the Farmers' and Mechanics' Bank. As a specimen of loose legislation, it may be noted that the act continues "all the privileges and franchises heretofore granted." In 1834, the time was extended, but it was forbidden to do anything but liquidate. All its notes were redeemed.*

ILLINOIS.—January 16, 1821, all executions were suspended until November 20th, and property which had been levied on was restored to the debtor.

At the same time, the Bank of the State of Illinois was chartered against the veto of the Council of Revision, in which the vote was 3 to 5. It was established at Vandalia, for ten years, with $500,000 capital, all owned by the State, and was to have four branches and no more. The president and directors of the principal bank were to be elected by the Legislature. The first issue of notes was to be for $300,000, from ones to twenties, bearing two per cent. interest, receivable by the bank or the State; to be allotted to the districts in which the branches were established in proportion to population. The presidents and directors of the branches were to lend the notes out over the district in proportion to population, on mortgage for loans over $100, on personal security for loans under $100, at six per cent., the loans being renewable yearly, and to be "considered as standing accommodations," the notes for the loans being made payable twelve months from date. The notes of the borrowers ran to the president and directors of the bank "for the use of the people of said State." The lands and revenues of the State were pledged for the debts of the bank and the Legislature pledged the State to pay all the currency issued by the bank within ten years, in gold or silver. No execution was to issue on any replevin bond or judgment, until November 1, 1821. On all causes of action, before the following May, replevin was to be granted for three years, unless the plaintiff would endorse that the notes of this bank would be received. The loans of the bank were to be repaid on installments within ten years, and one-tenth of the notes were to be withdrawn annually and not re-issued. The State funds were to be deposited in the bank; the school money receivable from the United States was to be paid over to it, with all specie or land-office money, and notes for double the amount of these funds might be issued and allotted in loans as above. This last provision seems to be a kind of addendum,—no doubt tacked to the bill in its course through the Legislature. It was repealed February 18, 1823. This State squandered and misappropriated its school money for ten years. February 12th, a supplement to the

* Dillon; Indiana, 545.

act for the Bank of the State enacted that there should be sixty days replevin even when there was an endorsement. On contracts after May 1st, for State Bank money, the same stay was provided, and in the same way, as that already provided for other contracts; but if the contracts were for gold or silver, the stay should be thirty days for a debt of $10, and a longer time for larger debts, up to one hundred and fifty days for a debt over $40.

The bank went into operation in 1821. All who could get endorsers borrowed a hundred dollars. The people cut the bills into two pieces so as to make halves of a dollar. For about four years there was no other money but that of the Bank of the State. Few pretended to pay their debts to the bank. More than half of the borrowers considered their debts as clear gain and never intended to pay them.* Many debtors refused to pay on the ground that the notes were bills of credit.†

The Supreme Court of the State decided, in 1826, that a debtor to the bank could not raise the question of its constitutionality; that is, could not dispute his own liability on the ground that the notes were bills of credit.‡ This decision prevailed as long as the Bank existed, but was overthrown in 1833, when the notes of this bank were decided to be bills of credit.§ It was decided, in 1829, that a debt to this bank was a debt to the State which the State could forgive.‖

From 1821, auditors' warrants were made receivable for bank debts. They had been issued at one-third of their face value, and were so quoted, while the State was liable for the full face value. There was a peculiar provision that each member of the Legislature was to receive such a sum, by way of remuneration, not exceeding $7 a day, as he should designate, by writing the same on a piece of paper, that he was willing to receive.¶

At the same time that the Bank of the State was chartered, all unauthorized paper currency was forbidden, under a penalty of $10,000. If it was issued by a corporation, the charter was to be forfeited and the members were made individually liable for this fine.

February 17, 1823, the execution and stay laws were codified, with slight modifications. Thirty days were allowed for the redemption of personal property sold on execution, fifteen per cent. advance on the price being given. On the following day, another law on the same interminable subject forbade any execution to issue on a judgment by a justice of the peace, until thirty days after it was rendered. At every meeting of the Legislature, a new attempt was made to modify these laws so as to deprive the creditor of his rights and remedies. The only plea which has ever been made on behalf of these laws is that under them the debtors and creditors were led to make compromises and settlements with each other, and that, in the existing state of things, probably this was the most just and reasonable course that could be adopted.

December 16, 1824, commissioners were appointed to make an examin-

* Ford, 47. † Edward's Edwards, 175. ‡ 1 Breese, 161. § 1 Scammon, 87.
‖ 1 Breese, 316. ¶ Edwards's Edwards, 176.

ation of the branch of the Bank of the State at Shawneetown. The president and directors of it were to pay over all moneys to the cashier of the head bank. This indicates some malfeasance in that branch.

The cashier of the Bank of the State was ordered, January 10, 1825, to burn all the notes in it, including those unsigned and unissued. This marked a revulsion against the institution. All notes which should be paid in afterwards were to be stamped "reissued," and to bear no interest. The cashiers of the branches were to pay over, at the half yearly audit, to the head bank all the money on hand. The bank was to receive no more individual deposits, and was to receive auditors' warrants in payment of bank loans.

January 28, 1826, it was ordered that State paper should not be paid out of the treasury at more than fifty per cent. discount, and the Bank of the State was to determine every three months the valuation at which that paper should be paid out during the following three months. No debt to the Bank of the State was to be scaled by the Court. If any debt had been scaled and endorsed, under the act of January 18, 1825, the sheriff was to collect, in specie or State paper, or bank notes. The wording is extremely confused and unintelligible, but it seems to mean that he shall take paper enough at the scale of depreciation to equal specie.

In speeches which he made in the State campaign of 1826, Ninian Edwards declared that the State was paying out notes of the Bank of the State at 33 cents on $1, but had to receive them for taxes, etc., at their face, and that the non-resident taxpayers bought them up at that rate, although it appears that they had, by so doing, raised their value; for he said that they would cost them 50 cents on $1 at the time of speaking. In five years, about $100,000 of the bank notes had been withdrawn, but auditors' warrants had been issued in place of them and had depreciated to about the same extent. The debtors to the Bank of the State were buying them at from 30 to 50 cents on $1 and were paying their debts to that bank with them. The loans, therefore, if all paid in, would fail to cancel the notes of the bank, for which the State was liable in specie, dollar for dollar.*

Edwards was elected Governor, and brought about an investigation of the Bank of the State whose officers he charged with mismanagement and corruption. The committee's report showed mismanagement, but such was the influence of a bank conducted by public officers that this committee was packed to make a report against the charges.† Ford makes far better criticisms on the Bank of the State system than any other contemporaneous writer. He noticed the cardinal fact, in respect to these institutions and to public improvements also, that the communities in which they were undertaken could not furnish competent men for their management. Scarcely a word is to be found to show that the legislators had any idea that the management of a great bank would require any special ability, skill, or training. They set up a bank,

* Edward's Edwards, 208.

† Ford, 65; Reynolds, 173.

with $1 million or $2 millions capital, assuming that it was going to run itself and produce great profits, never troubling themselves at all about the question who was competent to manage it, to attain these results. The Legislatures always furnished from amongst their own members a large number of candidates for the offices in the bank. These men had no training whatever, except what they had obtained from some participation in politics. The case was fortunate when the worst that could be laid to them was incompetency. They had crowds of hungry adherents; there were rivals who were eager for rotation in the bank. They were forced to favoritism towards a clique of supporters, and they could not be independent against the leading politicians of the State. In many cases, also, it is beyond question that they sought the positions, and used them in a shameless manner, for their private interests. It never proved possible to call them to account or to hold them to responsibility.

The deposits in the Bank of the State were ordered to be paid back February 13, 1827. The debtors to the Bank of the State might renew their notes, and no execution was to issue against one of them for three months. Here begin the enactments, half of indulgence, half of coercion, showing the uncollectibility of the bank loans. The debtors were allowed, January 23, 1829, to pay in three annual installments, giving three notes. If they did not accept this arrangement, and give security, before September 1st, the bank was to sell the previous security and take three notes for the purchase money at one, two, and three years, with security, "which bond shall have the force of a replevin bond." A record was to be kept of the kind of money received in these transactions. Any debtor who paid by July 1, 1830, was to be released from interest, and those who paid before September 1, 1829, were to get ten per cent. discount. Year after year, either the bank or the bank debtors besought the Legislature for relief.

In 1829, Gov. Edwards tried to draw the three per cent. fund due from the United States. The Treasury Department would not pay it because it was not satisfied that the State was using the money as the law prescribed. Edwards wrote a letter substantially to the effect that it was none of the Secretary's business what the State did with it. It was used in buying up the State debt as an investment. The Commissioners of the Fund bought State bank notes which were cancelled, and the Auditor of public accounts gave them a certificate of the indebtedness, so that the State simply borrowed the school fund and used it in paying old debts, under a promise that it would some time establish and support schools by taxes.* The big State paper money machine led the people to despoil their own children of the bounty of the federal government. Edward's letter is a splendid specimen of the State rights literature of the period.

At every turn therefore, we find proofs that "the paper of this bank was floating through the atmosphere of Illinois for ten years, as a poisoning and

* Edward's Edwards, 240.

pestilential vapor, that withered and blighted the country for that length of time. The paper never was at par, and sunk at times as low as twenty-five cents on the dollar."*

In the course of ten years the bank must have lost more than $150,000 by receiving depreciated currency; $150,000 more by paying it out; and $100,000 of the loans which were never repaid by the borrowers, and which the State had to make good.†

The cashier of the bank was in default, in 1831, and could not close his accounts. Commissioners were appointed to examine and make a settlement.

The State was bound, according to the terms of the incorporation of the Bank of the State, to redeem all the notes of that bank in specie in 1831. All parties had shirked preparation for this obligation until the last moment. January 27, 1831, the Governor was authorized to borrow $100,000, with which to redeem the outstanding notes of the bank, this loan to be payable after 1850 in specie or notes of the Bank of the United States. This was the "Wiggins Loan." February 15th, it was provided that the notes of this bank might be funded in six per cent. bonds, redeemable at the pleasure of the State. Any specie in the treasury was to be applied to the redemption of the notes, and they were to be burned.

The last enactment in reference to the debtors to the bank was February 14, 1835. They might have three years to pay their debts. All the interest and twenty-five per cent. of the principal was remitted. Thus those who had been the most remiss were the most rewarded, and any one who had paid earlier saw that he had made a mistake.

The MISSOURI Loan Office,‡ which became famous through the case of Craig *vs.* Missouri, was established at a special session of the Legislature, June 27, 1821, as a relief measure. The State was divided into five districts, and a loan office was established in each under the supervision of commissioners elected by the General Assembly. The Auditor and Treasurer were to issue certificates for $200,000, in denominations from 50 cents to $10, of the following tenor: "This certificate shall be receivable at the treasury or any of the loan offices of the State of Missouri, in discharge of taxes or debts to the State, for the sum of ——— dollars, with interest for the same, at the rate of two per cent. from this date." The loans in each district were to be proportioned to the population, and to be secured by mortgage or personal security; the mortgages not to exceed one-half the value; the loan to be for not more than one year; the interest to be six per cent. in advance; the repayment not to be required more rapidly than ten per cent. every six months; no loan on personal security to exceed $200, nor any other to exceed $1,000; one-tenth of the notes were to be withdrawn annually by the Auditor and Treasurer. The Governor was to negotiate a loan of specie for any amount up to the amount of the notes issued, and if the Legislature

* Reynolds, 143. † Ford, 47. ‡ See page 141.

should approve the contract, such loan was to be a fund for the redemption of the certificates. An appropriation of $2,000 was made for expenses. The salt springs and lands attached thereto were to be leased, and the lessees were to stipulate that they would take these certificates for salt at the rate set by law. The State revenue from the salt springs, and all the State property and credit, were pledged, with the faith of the State, to redeem the certificates.

A comparison of this institution with the great Banks of the States, above described, will show what, if any, difference there was between them. If the Loan Office had been called a bank, and the commissioners directors, and if it had been said of the latter that they were "incorporated," no difference would have been discernible.

There was understood to be a strong implication that this Loan Office was to issue no more than the sum mentioned in the act; but within a few months another $100,000 were issued. The depreciation increased thereupon from 33 1-3 per cent. to 50 per cent.*

The law was declared unconstitutional in the St. Louis Circuit Court, in February, 1822, in Missouri *vs.* Lane, the issue being pronounced to be bills of credit. The Judge in his decision gives us some glimpses of the situation. "Kentucky had got the start of us in the paper money system, and her citizens, finding there was nothing else to be had at home for their products, brought them here and sold them to us at reduced prices. The advantage of this to the consumer was overlooked, and we determined to adopt the paper system, to exclude the commerce of Kentucky. This purpose has been accomplished. The price of produce has been so reduced that that of Kentucky comes here no longer." "We are told of the 'pestilent effects of paper money on the industry and morals of the people.'" On this subject, let us look to the listlessness, the broken-hearted indifference to exertion, which, under the pressure of great pecuniary distress (the strongest incentive to exertion, where every ray of hope is not excluded) pervades the hardy population of this fertile country. Let us look for its effect on morals to the criminal docket of this court, at this term. Offenses, the offspring of wantonness, of folly, of desperation, of a cultivated contempt for the rights and feelings of others, and disregard for the opinion of the world, and disrespect for what men have been accustomed to hold respectable,—and in short of a total depravation of the moral sense and dissolution of moral obligation, encumber our proceedings and disgrace our records."

In connection with the Loan Office, a new and wider stay law was also enacted December 28, 1821. Each county court might appoint three valuers. The plaintiff might endorse that he would take property at two-thirds of the valuation. When the Sheriff makes a levy, the valuers are to value the property. After twenty days it is to be put up for sale. If no

* Missouri *vs.* Lane, in the St. Louis Circuit Court, February, 1822. Supplement to 22 Niles, 128.

bid amounts to two-thirds of the valuation, the Sheriff is to deliver the property to the creditor at that limit. If the creditor makes no endorsement, the debtor is to have a stay for two years and six months, giving bond, with sureties, approved by the Sheriff. This law is not to apply to debts for lead ore delivered. Instead of giving a bond with sureties, the debtor may give land at two-thirds of the appraisal, as security, the judgment being then construed as a mortgage. At the expiration of this stay, if the debt is not paid, there is to be a peremptory sale. The act applies to foreclosures on mortgage. If the Sheriff violates this act in his proceedings, he is to be fined $20, and the sale is to be void. On January 11th following, the further provision was made that the plaintiff might endorse Loan Office certificates.

This act was also at once declared unconstitutional in the Circuit Court of St. Louis county, in the case of Glasscock *vs.* Steen, with a citation of Crittenden *vs.* Jones* and Townsend *vs.* Townsend.† The Supreme Court of the State confirmed this decision, and the people acquiesced.‡ The stay law was repealed November 27, 1822.

The Bank of Missouri failed in the summer of 1821. Its capital was $210,000, of which the directors had paid $108,795 by stock notes. They had borrowed $79,569 on mortgage security, $60,075 on personal security, and they were liable for $37,310 as endorsers, so that they owed it more than $75,000 in excess of its capital. The notes in circulation amounted to $84,301. The bank also held United States deposits to the amount of $152,407.§

The State expenses were provided for, January 2, 1822, by $50,000 Loan Office certificates. In the same month, two supplementary acts were passed to perfect the Loan Office system. December 29, 1821, $50,000 in Loan Office certificates were loaned to Neziah Bliss, to encourage him to establish iron works. January 11, 1822, $10,000 in Loan Office certificates were granted, under certain conditions, to some persons who promised to set up a grist mill, and $40,000 in certificates were reserved for similar encouragements to other industrial enterprises.

This was entering on a wide field of possibilities; but the next Legislature assembled with quite different ideas. One of its first acts, November 27, 1822, was to enact that no more Loan Office certificates should be paid out or loaned, and the grant to Bliss was revoked. December 18th, the whole system was arrested as far as possible. Loans were to be called in at the rate of ten per cent. every six months. The certificates were not to be receivable for the fees of State officers. Next followed the struggle to bring about a liquidation of the contract between the State and its debtors, as in all the other cases of this kind. We find a law for this purpose in 1829 and another in 1831. In the latter it is provided that the debtors shall be released at 50 cents on the dollar.

* Battle & Taylor; N. C. Repository, 55. † See page 149. ‡ 22 Niles, 226; Supplement, 121; 23 Niles, 148. § 21 Niles, 38.

MISSISSIPPI.—A joint resolution was passed against the admission of a branch of the Bank of the United States, February 12, 1828, on the ground that any such bank ought to be taxable, like the property of Mississippians. This act was repealed December 13, 1830, and the Bank was invited to establish a branch in the State. One was established at Natchez.

ALABAMA.—At the session of 1820-21, we find the State struggling with the suspended banks. In a tax law of December 20, 1820, a tax of fifty cents per share was laid on bank stock, but it was to be doubled on any bank which was not paying specie on July 1, 1821. A year later it was enacted that after February 15, 1822, no note should be receivable by the State for dues or penalties, unless the bank which issued it was regularly redeeming its notes with specie. Any note-holder might get judgment against the bank for a note not paid on demand, and if any bank should not be redeeming its notes in July, 1822, the Governor was to inform the prosecuting officer of the county in which it was situated, directing him to try a *quo warranto* to forfeit the charter. In a tax law passed at the same time, the Governor was directed to inform the tax collectors of a suspension by any bank, in or out of the State; the notes of such bank were not to be received. The penalty tax was also re-enacted. November 29, 1821, the Governor was directed to pay the debt of the State to the Huntsville Bank in its own notes then in the State treasury.

A year later a *quo warranto* having been entered against the Planters' and Merchants' Bank, the suit was suspended, until March 1, 1823, on condition that the bank would pledge itself to resume during 1823. If it should suspend at any time after January 1, 1824, the Governor was to issue a proclamation that its charter was void. December 31, 1823, however, we find another act ordering this bank to resume August 1st of the next year, or forfeit its charter. If it assents to this, the *quo warranto* is to be further suspended; if not, it is to be prosecuted.

At the end of 1823, the distress of the people in the northern counties was very great. They had only Huntsville money. The collectors of those counties were therefore directed to take this currency for taxes if the bank would pledge itself to redeem the same in November, in the notes of specie paying banks. The collectors were to take oath that they had not obtained this currency by exchange. At the same time the Treasurer was directed to present the notes of the Huntsville Bank in the treasury to that bank and demand payment. If it refused, he was to sue it. The Governor declared its charter annulled, in February, 1825.* The indulgence to the Planters' and Merchants' Bank proved vain and it also failed.

A charter for a Bank of the State of Alabama was enacted, December 21, 1820; $2 millions capital, half by the State. It never went into operation, presumably because the private capital could not be subscribed. December 20, 1823, another act for a Bank of the State was passed, with this preamble:

* 38 Niles, 34.

"Whereas it is deemed highly important to provide for the safe and profitable investment of such public funds as may now or hereafter be in the possession of the State, and to secure to the community the benefit, as far as may be, of an extended and undepreciating currency." This bank differed from the one projected in 1820 in that it was purely a State concern and had no private stockholders. It had no specified amount of capital. The faith and credit of the State were pledged to make good deficiencies and losses, and the various funds and permanent revenues, either belonging to the State, or under its care, were put into it; so that it was to "bank" upon them for its own interest, instead of investing them. The proceeds of the school lands from the federal Government were to go into its capital, and the State was to guarantee to the State University its funds, paid into the bank, not exceeding $100,000. The federal three per cent. fund was also placed in it, the dividends on which were appropriated to roads and canals; also the lands assigned by the United States for the seat of government, and the revenues from leases of salt springs; furthermore all escheats and other perquisites of the State. Six per cent. State stock was to be issued in aid of the capital of the bank, and all the public funds, not pledged to the capital of the bank, were pledged for these bonds. No single loan was to exceed $2,000, and the debts were never to exceed twice the capital. The Legislature was to elect annually a president and twelve directors. It was to last until 1845, make annual statements, be inspected by the Comptroller as often as he saw fit, and report to him monthly upon his demand. The lowest denomination of its notes was $1, and they were receivable by the State. A peremptory process of collection in thirty days was provided for it. Its loans were to be apportioned between the counties in proportion to their representation in the General Assembly.

In April, 1824, the notes of northern and eastern Banks were at 26 to 28 premium in Alabama, and the notes of Kentucky banks at 30 discount. In November, the president of the Bank of the State brought to Mobille $100,000 in specie, obtained by the sale of the six per cent. stock at New York, and an Alabama newspaper said that the bank would go into operation with upwards of $200,000 capital on hand, "the prayers and predictions of the Shylocks, the shavers, the skinflints, and screw-drivers to the contrary, notwithstanding;"* from which we infer that the capitalists of the State had disapproved of the enterprise and predicted its failure. December 24th, the Bank of the State was authorized to issue post notes, payable to order, in specie, having not over one hundred and twenty days to run. January 2, 1826, it was provided by law that the Legislature should, at each session, appoint a committee to investigate and examine the bank under an injunction of secrecy. January 12th, the bank was ordered to be removed to Tuscaloosa. January 13th, the injunction of secrecy on the report of the Committee of Investigation was removed, and the report was ordered published. A statement of the affairs of the bank, perhaps taken from this

* 26 Niles, 200.

report, was as follows: capital, $253,646; circulation, $273,507; deposits, $164,735; loans, $448,859; specie, $141,330.*

In the autumn of 1826, a rumor became current that the Bank of the United States was about to establish a branch in the State. Governor Murfee wrote to Biddle, stating that Alabama had established a bank system of her own, with which she was very well satisfied, and asked a postponement of the plan to establish a branch until the Legislature of the State could express its views on that matter. Biddle answered that a branch at Mobile was required for the purposes of the federal Treasury; that the Bank would be of great benefit to Alabama, and that it never did any harm to solvent banks, although firmly resolved to perform its great duty of maintaining a sound currency.

The Mobile and Tombeckbee Banks were resisting the attempt of the State to tax them, as all banks maintained, at this time, that they could not be taxed if the power had not been reserved in their charters. The State was suing them, but offered to release them from all penalties if they would pay the arrears, interest, and costs, and $500 to the State solicitor for prosecuting the suits.

A special subject of difficulty in Alabama arose from the question who should fix the salaries of the officers of the Bank of the State. In the charter, the president and directors were to do so; but a law of January 9, 1827, assumed this power to the Assembly. Frequent acts were passed in the next fifteen years, dealing with this subject. The directors were free from jury and militia duty.

In the case of Alabama, also, no sooner has the Bank of the State been in operation a few years, than we meet with legislation to enforce the recovery of its loans (January 15, 1828), and also to correct improper acts of the directors of the bank, and to maintain due discipline over it. January 14, 1828, the directors of the Bank of the State were ordered not to buy any real estate, except to secure debts due the bank. No single loan was to exceed $5,000, and two endorsers were required on each note, each of whom would be good for the whole. The legislative committee on the bank was authorized to send for persons and papers. At this time, also, the Governor, Comptroller, and Treasurer, with the president of the bank, as a Board, were authorized to issue certificates of stock of the State at six per cent., for twenty years, to the amount of $100,000, and sell them if they could get par for them, in order to increase the capital of the bank. As the Tombeckbee Bank failed in 1827, there were now no banks in the State, except the Mobile Bank and the Bank of the State.

In 1828 there was no local bank in operation in Kentucky, Indiana, Illinois, or Missouri, and only one each in Tennessee and Mississippi. The United States Bank was doing an extensive business.

* 30 Niles, 137.

CHAPTER XI.

The National Bank and the Local Banks Co-ordinated into a New System.

§ 1.—Local Banks on the Atlantic Coast from the Liquidation of 1819-1822 until the Bank Expansion Produced by the Bank War.

THE panic of 1819, with the wide-spread bankruptcy of the banks having passed away, the isolated cases of bank failure, which nearly always involved fraud or folly in some great degree, attracted very great attention. In 1823, the Bank of the Northern Liberties of Philadelphia failed. The overdrafts were nearly equal to its capital. The Bank of Hudson failed, the loans to its officers being $143,794, of which $100,000 was uncollectible. The State Bank at Trenton failed in 1825, having $92,400 capital, and $339,238 debts. It refused its own notes as an offset to a judgment, but after some litigation was forced to allow it.*

Massachusetts.—The Suffolk Bank was chartered in 1818. It was "required to appropriate one-tenth of its whole funds to loan to citizens of the Commonwealth, residing out of Boston, engaged in agriculture or manufactures, in sums not less than one hundred or over five hundred dollars, with interest annually, these loans to be secured by mortgage." "The State was at liberty to subscribe for an increase of stock equal to one-half of the paid up capital; to appoint a *pro rata* proportion of directors; and to borrow at any one time any sum not exceeding ten per cent. of the capital of the bank, payable at any time short of five years, at five per cent. interest; and its total liability to the bank was limited to 20 per cent. of the capital."†

A committee of this bank to take into consideration the subject of country notes reported, February 24, 1819, "That it is expedient to receive at the Suffolk Bank the several kinds of foreign money which are now received at the New England Bank, and at the same rates. That if any bank will

* 29 Niles, 20, 73, 211.

† Whitney; Suffolk Bank, 4.

deposit with the Suffolk Bank $5,000 as a permanent deposit, with such further sums as shall be sufficient from time to time to redeem its bills taken by this bank, such bank shall have the privilege of receiving its own bills at the same discount at which they are purchased." "That should any bank refuse to make the deposit required, the bills of such banks shall be sent home for payment at such times and in such manner as the directors may hereafter order and direct."

The Bangor Bank failed in 1822, having a large circulation at Boston. "Some say that there has been first-rate swindling in this affair, which is likely enough. It is estimated that before the failure of this bank, the people of New England had suffered a loss of more than $1.3 millions by the failure of country banks."*

The difficulties with the country notes continued, although they had been reduced in amount during the years 1820–1824. "The money thus exchanged was partly received back by the issuing banks, at the same discount at which it was sold here by persons who had received it at par, they making the whole profit of the discount, and was put again into circulation by them at par; part was purchased at the discount for the purpose of paying shopkeepers, tradesmen and marketers, by rich men and others who received their income in Boston money, and who thus made an ignoble profit by making their payments in a currency baser than they would consent to receive; and part was occasionally carried home to the issuing banks for redemption, by brokers who were compensated for the trouble and expense by the premium paid in the exchange."†

"After the New York banks had adopted (1824) the measure of receiving country bills, and among others those of the Connecticut banks, at par, Connecticut money became a convenient and profitable remittance from this city [Boston] to New York, and in consequence came into demand at a discount of a half per cent., while other current bills remained here at one per cent. This state of things threatened to withdraw the Connecticut bills from their forced circulation here, and to leave their place to be occupied by those of this State [Massachusetts], New Hampshire and Maine. To avoid this misfortune, and to aid in regulating more to its own advantage the circulation of this city, one of the banks of Connecticut actually made a deposit of $50,000 in one of the banks of this city, for the term of one year, without interest, to induce that bank to undertake the measure of receiving all current money at a half per cent. discount. In consequence of this measure of the Connecticut bank, and of some competition which it produced, the discount was soon after reduced to a quarter per cent."‡

On the first Suffolk Bank scheme, the associated banks contributed $300,000 in their notes in proportion to their capital. This was a fund for taking up the foreign notes received by all, redeeming them in those notes in the proportion of the subscription, and sending them home. The specie

* 22 Niles, 305. † Hale; Banks and Currency of the United States, 11. ‡ Hale, 18.

replaced the fund.* This business was commenced May 24, 1824. "The country banks naturally were very much excited and loud in their opposition. They felt that the result must be the curtailment of their circulation, and the necessity of keeping a larger specie reserve. In derision they called the associated banks the 'Holy Alliance,' and some dignified the Suffolk Bank with the title of the 'Six Tailed Bashaw,' but they soon became convinced that a promise to pay, printed on the face of a bank note, meant a promise to pay in specie on demand." To the complaints the Suffolk Bank replied that they thought it "unnecessary to make any remark upon the right which one corporation has to demand of another the payment of its just debts," which was a very pertinent reply, since the complaints were a noteworthy revelation of the strange perversion of mind which reigned in the banks, in respect to the difference of obligation of debts to the bank and from the bank.

Within two years, the business grew very rapidly and took a somewhat different shape.

"The general arrangement made with the New England banks, which opened an account with the Suffolk Bank for the redemption of their bills, was as follows: Each bank placed a permanent deposit with the Suffolk Bank of $2,000 and upward, free of interest, the amount depending upon the capital and business of the bank. This sum was the minimum for banks with a capital of $100,000 and under. In consideration of such deposit the Suffolk Bank redeemed all the bills of that bank which might come to it from any source, charging the redeemed bills to the issuing bank once a week, or whenever they amounted to a certain fixed sum; *provided* the bank kept a sufficient amount of funds to its credit, independent of the permanent deposit, to redeem all of its bills which might come into the possession of the Suffolk Bank; the latter bank charging it interest whenever the amount redeemed should exceed the funds to its credit; and if at any time the excess should be greater than the permanent deposit, the Suffolk Bank reserved the right of sending home the bills for specie redemption. As soon as the bills of any bank were charged to it, they were packed up as a special deposit, and held at the risk and subject to the order of the bank issuing them. In payment the Suffolk Bank received from any of the New England banks, with which it had opened an account, the bills of any New England bank in good standing *at par*, placing them to the credit of the bank sending them on the day following their receipt."†

In 1826, there was great stringency of the money market in New England; the rate of discount at Boston being from one and one-half per cent. to two per cent. a month. This was charged by some to the Suffolk Bank system. Specie was moving about quite actively on account of the necessary steps to set that system in operation.‡

In 1826, a regulation was adopted of passing money received at the

* Whitney, 14. † Whitney, 19. ‡ 28 Niles, 169.

banks to the credit of the depositor only at the expiration of ten days from the date of deposit. "It is now only the regular depositors at the eight allied banks who have the privilege of exchanging country bills for Boston at par. Even the Savings Bank receives only Boston money in deposit, and all payments to the seven other Boston banks, and to the United States Bank, are required to be made in Boston or United States money."*

The oppression of the allied banks of Boston was so keenly felt that a convention was called of stockholders of country banks, at Boston, January 16, 1826, to take measures to crush the Boston alliance by means of a more formidable one. This convention recommended its constituents to withdraw their deposits from the Suffolk and to arrange for redemption amongst themselves so as to lessen their circulation in Boston.

Under the old system, those banks had gained the most which were farthest from Boston, because it was harder to send their notes home, while those country banks which were near at hand and whose notes could easily be returned, gained the least. The effect of the Suffolk system was to put the latter comparatively in a much better position. Their support probably insured the success of the system.

It is evident that the great gains of the Suffolk system, when it was in full operation, came from the fact that it exploited the ignorance of the country bankers, who were over-issuing on accommodation paper, falling in debt to the Suffolk Bank, fearing its power and hating it. It did not really keep them sound, but let them go wrong only to a certain point, holding them by a cord and making them pay for the indulgence.† Appleton said, in 1831, that the gain to the Boston banks by the Suffolk system was largely lost by the increase of banks in the country, yet near to Boston, which had gained the most by it. As time went on, the system was extended until it embraced nearly all New England, and held the notes of that region very nearly uniform. There was, however, always friction in it between the city and country banks.‡

RHODE ISLAND.—In 1826, it was stated that nearly one-third of the capital of the Rhode Island banks was loaned to directors and other stockholders. This accounted for the small proportion of notes in circulation.§ There were forty-three banks in the State, which was more than one for every two thousand souls.‖

CONNECTICUT.—In 1825, some New York speculators took up the charter of the Derby Bank, which had wound up and gone out of existence, and put about $80,000 of notes bearing its name in circulation. It then failed. The failure, however, which has remained the most fa. ous in southern New England was that of the Eagle Bank at New Haven. It had loans outstanding of $2 millions, of which $1.7 millions were bad, being in the hands of a single firm. The liabilities were $1.5 millions, nearly all for circulation, and the assets were only $300,000 on a liberal valuation. The notes were quoted at

* Hale, 20. (1826.) † See Whitney, 37; 1 Bankers' Magazine, 79. ‡ Gouge; Journal of Banking, 351.
§ Hale, 8. ‖ 28 Niles, 258.

50 cents on $1. The president was arrested and imprisoned, but he compromised and was released.* There was a clause in the charter of this bank, of the kind mentioned above,† that various ecclesiastical and educational societies might at any time subscribe shares at par, with their funds, which shares should not be transferable, but should be withdrawable on six months' notice. In the first case of trouble, of course, the question arose whether these were deposits or shares in the capital, involving the question whether the owners were debtors or creditors in bankruptcy. In the case of the United Society against the Eagle Bank,‡ it was held that the society could not, after the insolvency of the bank, withdraw its shares or recover the amount as a debt of the bank. Its position was that of a stockholder. The case of the Bishop's Fund *vs.* the Eagle Bank,§ involved the same point. The Eagle Bank had also $80,000 or $90,000 deposited by the New Haven Savings Bank, "all the money which it had received," at four per cent. interest. An attempt to break down the special assignment in favor of the Savings Bank failed.‖

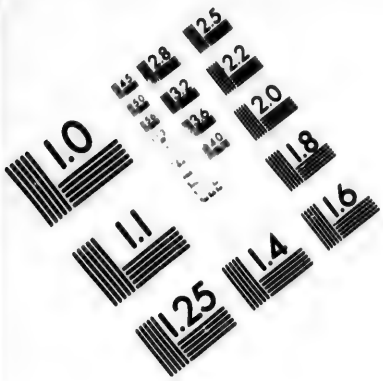
NEW YORK.—The scandals which had occurred in the State of New York in connection with legislative charters for banks led the Constitutional Convention of 1821 to put a provision in the Constitution that a two-thirds vote of both Houses should be required to incorporate a bank. This provision proved entirely useless for its purpose. It only made it necessary to take more comprehensive and elaborate measures when attempting to secure charters, and strengthened the monopoly of note issue in the hands of the existing banks.¶

In 1824 the charter of the Chemical Bank of New York was connected with great political and legislative corruption. It was also mixed up with the election of that year.** The lobbyists of the bank were indicted for using improper means to affect legislation.†† Forty-seven charters were applied for in New York in 1824. Niles said, "It is to be feared that we are getting mad again." There were seventeen banks and forty insurance companies already.‡‡

There was great prosperity at New York. Three thousand new buildings were being erected.§§ In the spring of 1825 the exchange with England showed that our currency was as good as theirs and our mint was reported well supplied with bullion silver and foreign coin.‖‖ There was abundance of capital, the stock of the Morris Canal and Banking Company was subscribed at Philadelphia twenty times over, and that of the Blackstone Canal at Providence three times over.¶¶

In 1825, the banks of New York City agreed no longer to accept on deposit the notes of country banks which did not keep a deposit and an account with them. The "Evening Post" said that the city banks had, within twelve months, been at the expense of sending home $25 millions of country bank notes for redemption; they had suffered losses by the Eagle

* 29 Niles, 151, 364; 34 Niles, 315. † Page 42. ‡ 7 Connecticut, 456. (1829.) § Ibid., 475.
‖ 6 Connecticut, 233. ¶ 1 Hammond, 337. ** 2 Hammond, 178. †† 27 Niles, 57.
‡‡ 26 Niles, 268. §§ 27 Niles, 5. ‖‖ 27 Niles, 391. ¶¶ 28 Niles, 147.



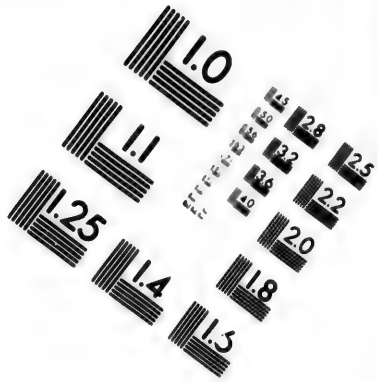
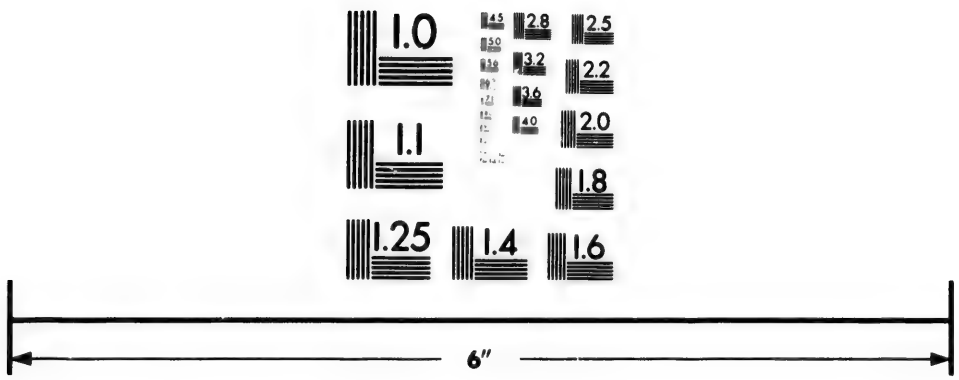
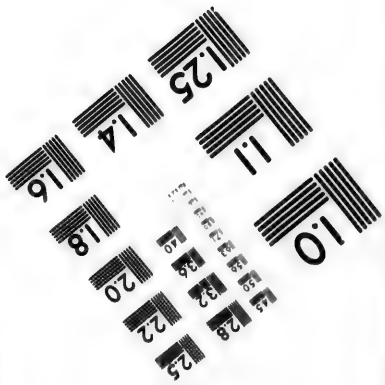


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Bank of New Haven, from not having persisted in sending its notes home.*

In January, 1826, the applications for charters in New York City included twenty-seven banks with a capital of $22,500,000, thirty-one other companies with a capital of $14,300,000, thirty-six country banks with a capital of $13,200,000, thirty-nine other companies with a capital of $5,400,000, and fourteen additional companies with a capital of $5,500,000.† A year later there was a legislative investigation of alleged bribery and lobbying.‡

In order to escape the stringency of the New York law, several banks were also set up in New Jersey opposite New York, in order to do business there. In 1825-6, a number of these failed on account of more or less reckless or, as was alleged, dishonest banking. The two banks on Nantucket failed. They were one of Jacob Barker's jobs.§ It was another scheme for playing off banks at a distance against each other.

In January, 1826, occurred the failure, at New York, of the Marble Manufacturing Company, which had been founded by one Malapar, a French oyster-house keeper. He ran away, but we hear that he was admitted to the poor-house in 1834.‖ In July there was a grand bank explosion at New York with trials for conspiracy. A large number of the companies which had been started in the preceding years were proved to be swindles. Two of the accused were sentenced to imprisonment for two years and two others for one year, but a year later the Supreme Court quashed the indictments for irregularity.¶ The New Hope Delaware Bridge Company is a good specimen of one class of companies which were in fashion at the time. It had a charter for building a bridge across the Delaware river, with perpetual banking privileges, dating from 1812. The company failed in 1821 and their property was put in the hands of a receiver in 1824. In 1825 they issued new notes and failed again in 1826. We hear of them again, however, as making large issues of notes which were worth six to twelve cents on the dollar.**

A law of December 3, 1827, enacted that the charter of every corporation that should thereafter be granted by the Legislature should be subject to alteration, suspension, and repeal.

Two pamphlets on banking were published at this time, which are worth noticing on account of the influence they had on public opinion and probably on legislation. McVickar†† maintained that banks were not necessary to support credit or supply currency. Credit supports banks, not *vice versa*. Law cannot regulate credit. The present system of banks is "in too

* 29 Niles, 179.

† 29 Niles, 324.

‡ Life of Silas Wright, 67.

§ 29 Niles, 275.

‖ 30 Niles, 237; 46 Niles, 301.

¶ Life of Jacob Barker, 201.

** Mackenzie, Lives of Butler and Hoyt, 69; 30 Niles, 411. In 1848 the Governor of New Jersey was trying to get the Attorney-general instructed to proceed against this company. It had notes out for $100,000, all illegal, had failed three or four times, and had never had any capital. (2 Bankers' Mag., 502, 509, 510.)

†† Hints on Banking.

many of its features, a dark and disgraceful picture." Contraction is a policy by which banks save themselves and ruin the community after leading it into error. The great fault of the banks is that they are not founded on real capital. He proposed a system of free banking, the capital to be invested in stocks, etc.; the fundamental idea of the free banking law of 1838. In "A Peep into the Banks," the anonymous author criticized adversely a project which was then proposed for a Bank of the State. "The time was," he says, "when to get a bank, it was thought necessary to have money to put in it; now men get a bank charter for the contrary reason,—because they have no money and want some. Fools and knaves in their individual transactions obtain little or no credit, but when congregated by a legislative act, have too frequently been invested in the eyes of humble but honest and industrious mechanics with a dignity and importance that have been alike ruinous to the possessor and beholder."

By an act of April 2, 1829, in accordance with a recommendation of Governor Van Buren, the safety fund system of banking was established in New York. There were forty banks whose charters were about to expire. In a work on "Banks and Banking in the State of New York" by A. C. Flagg, the system is said to have been imitated from a combination of the Hong merchants in China for mutual support. Hammond says* that it was invented by Joshua Foreman. The notes were not to exceed twice the capital paid in, and loans were not to exceed two and a-half times the capital. Each bank was to put in the hands of the Treasurer of the State annually one-half of one per cent. of its capital stock until it had paid three per cent. of its capital. The fund thus constituted was to be used to pay the circulation and other debts of any one of the included banks if it should become insolvent, and if the fund was thus diminished, it was to be restored by *pro rata* payments as before. After the three per cent. fund was constituted, the accumulations were distributed amongst the contributing banks, unless the insolvency of some of them drew the fund down below its normal amount. The banks were thus to be compelled to watch each other.

Experience quickly developed two great faults in this system; the responsibility of the safety fund for all the debts of the bank, and the rating of the contribution to the fund on the capital and not on the circulation. Isaac Bronson touched the weak point of it, saying: "But it is not perceived how the Commissioners of the safety fund are to have any influence in preventing all the banks in the State from suspending payment at once." All the banks, he thought, would continue to issue paper, as in the past, if the exchanges should continue favorable, and if there were no restraints by a national bank.† This was exactly what happened. Gallatin, in his Essay of 1841, made the following criticism: "The annual tax of one-half per cent., imposed under the name of 'a safety fund,' is unjust towards the banks which are well administered, and injurious to the community at

* Vol. II., p. 297.

† Letter to a Member of Congress, 1832.

large. To make a bank responsible for the misconduct of another, sometimes very distant, and over which it has no control, is a premium given to neglect of duty and to mismanagement, at the expense of the banks which have performed their duty and been cautiously administered. That provision gives a false credit to some institutions, which, not enjoying perfect confidence, would not otherwise be enabled to keep in circulation the same amount of notes; and it therefore has a tendency unnecessarily to increase the amount of paper money. The fund would be inadequate in case of any great failure; and it provides at best only against ultimate loss, and not at all against the danger of a general suspension."*

The New York City banks opposed the scheme because it would reduce them to the level of the country banks, and they refused at first to come into the system, but afterwards did so. The number of banks with which it started in 1829 was thirty-one. Contributions were first made to the fund in 1831. There were three Bank Commissioners to supervise the system and report on it annually to the Legislature. The Governor appointed one Commissioner with the consent of the Senate. The banks in the southern part of the State named the second and the other banks the third.

The first number of the New York "Sun," September 3, 1833, is a sheet of four pages, eleven by nine inches in size. One column, that is one-twelfth of the whole paper, is taken up with a list of banks in and near New York City, with a statement of their standing. On the whole the showing is not very bad, but we may see what interest such information had for all the people of that time and how important it must have been for merchants and others to study this column.

In PENNSYLVANIA the act of March 22, 1817, prohibited under a penalty the issue of any notes or tickets for less than $5 except by banks duly authorized, and also prohibited any bank to issue such notes after the 1st of October following, thus withdrawing a privilege which had been granted December 28, 1814. Small notes, however, came in from Delaware, New Jersey, and New York. The attempt to forbid these notes was frustrated from a fear that if they were excluded the people would have no money.†

On account of the lack of small notes the Bank of North America was allowed, in 1825, to issue 1's and 2's "on the best paper."‡ Niles timidly proposed that some Maryland bank should be allowed to do the same. A month later he complained of the flood of small notes.

In the early part of this century, as we have already seen, all the operations of banking were carried on with great secrecy. "A Friendly Monitor" writing in 1819, said that he had found great difficulty in obtaining information about the Bank of the United States. "If I ask a director, the seal of his finger is significantly impressed on his lips. There is a species of masonry in banking which to a certain extent is highly proper and necessary. It implies a mutual pledge among the directors that nothing shall be divulged

* 3 Writings, 423. † Raguet; Currency and Banking, 129. ‡ 29 Niles, 177.

which may be prejudicial to the interests of the bank." The banks of Pennsylvania made no regular returns to the Legislature until after 1817. Then annual accounts were published, but for many years before 1833 the Banks of Pennsylvania and North America had made no return.*

The forty banks which had been chartered in 1814 sought a renewal in 1823, but in vain. They were, however, all re-chartered in the following year. By a law of Pennsylvania, in 1823, every note of the Camden Bank in New Jersey was made liable to forfeiture in Pennsylvania, the one who tendered it to pay the costs.

On account of the scarcity of money there were loud demands for a national currency.†

One of the most elaborate statutes of this period to try to prevent the suspension of specie payments by the banks was enacted in this State in 1824. If payment in specie was refused the noteholder was to have six per cent. interest for three months, when he must make a new demand. If refused he was to have interest for another three months and so on. The cashier or president was bound to endorse the date of refusal on the note, or he became liable to the holder for the sum of $25. "Upon the refusal to pay, after three months from the first refusal, it shall be lawful for the holder to make application to any Judge of any Court to allow him or her to make proof of said refusal, on oath or affirmation, by one or more disinterested witnesses, whose duty it shall be to give at least ten days' notice to the president or cashier of such bank, in order that an opportunity may be afforded for rebutting the same. If the facts be substantiated, it shall be the duty of the said Judge to reduce the same to writing and transmit it to the Governor, who shall issue proclamation declaring the charter forfeited. After the tenth day of the proclamation the charter shall be absolutely null and void." "In case of suspension it shall not be lawful for such bank to issue its own notes, except to claimants of deposit moneys, or make any new loan, until said bank shall pay, in gold or silver, its obligations. If such note be issued, the directors shall be liable, each in his individual capacity to pay the amount thereof."

At length, April 12, 1828, small notes were prohibited by law in Pennsylvania, and the prohibition appears to have been more effectual than it generally was in other places. After some struggle, the small notes of the neighboring States were excluded and silver came into use.‡

The new Constitution of DELAWARE, 1831, required a two-thirds vote for the passage or renewal of any act of incorporation, with a reserved power of revocation by the Legislature; and such acts could only run for twenty years.

MARYLAND.—The banks of Baltimore adopted a resolution, September 7, 1820, to withdraw all notes under $5 and to allow no small notes to circulate.§ As a condition of a renewal of their charters, in 1822, they agreed to build

* Gouge, Journal of Banking 405. † 24 Niles, 389. ‡ Raguet, last citation.
§ 19 Niles, 17.

a piece of the Cumberland road, about ten miles long, the only part which was lacking between Baltimore and Wheeling.*

An earnest effort was made in Maryland, at the session of 1829-30, to establish a Bank of the State; but it was defeated in the House, 46 to 23.†

North Carolina.—After the stress of the war passed away, the difficulties of the State finance ceased. In 1820, there was a surplus in the treasury which the Treasurer was directed to invest in bank stock. In 1823, a further issue of treasury notes was ordered to the amount of $100,000, in denominations of five to seventy-five cents, receivable for dues to the State. It appears that they were not needed for State expenses, so it was provided that they should be issued in exchange for specie or bank notes, which was to be expended for bank stock; so that the State manufactured and sold a State paper issue, in order to buy bank stock. In 1824, the Treasurer was directed to invest his balances in bank stock until otherwise ordered, or until a bank should be established on funds of the State. In the following years dividends on bank stock appear in the revenue of the State. In 1828, the Treasurer bought stock in the Bank of the State at 90 and in the Cape Fear and Newbern Banks at 80. He reported in that year that $106,469 in treasury notes had been burned, out of the $262,000 which had been issued in 1814, 1816, and 1823, as above. He said that those still out were very ragged and dirty. In the same year commissioners were appointed to vote on the State shares in the banks. They were instructed by law "not to give their consent to any proposition or regulation for the too rapid reduction of the debts to said banks, or to the too sudden winding up of the affairs thereof;" also to inquire and report on what terms the existing banks would merge in another bank to be made. During the first part of 1828, North Carolina notes were at from five to twelve and one-half discount at Philadelphia. The South and Southwest were flooded with them.‡ This state of things appears to have led to a special investigation by a legislative committee at the session of 1828-9.§ Raguet says that the banks of North Carolina had long refused specie payments. "A law was proposed but not enacted which has induced them to call in their issues, the commencement of which has produced such an alarm throughout the State that the grand jury in several counties have recommended a special call of the Legislature in order to prevent a measure which they have the folly to believe will ruin the whole people."‖

The Committee of 1828-9 declared that the banks made usurious contracts, lending depreciated paper to be repaid with specie funds, and that they purchased their own notes at a depreciation. The Bank of the State put out its own notes in the purchase of cotton, and at one time they adopted a rule that any one who demanded specie must take an oath that he was not a broker. It is in evidence that the Bank of the State has made false statements to the Legislature of the amount of specie on hand. It counted under that head stock of the United States Bank, which it had

* 22 Niles, 179. † 37 Niles, 412. ‡ 34 Niles, 154. § See pages 45, 85.
‖ 1 Free Trade Advocate, 303.

bought in violation of its charter. The amount of actual specie now in the Bank of the State is certainly not $1,000. This bank is now considering whether it will not wind up. It holds the notes of the people for more than $5,000,000. They proposed that the Attorney-general should be instructed to institute a judicial inquiry into the conduct of the banks, but it does not appear to have been done.*

The Bank of the State declared two and a-half per cent. dividend; the Bank of Cape Fear four per cent., and the Bank of Newbern four per cent. for the year 1828.† At the session of 1829-30, the State Treasurer was directed to call for returns from all the banks, as to the debts of directors and stockholders, and the amount of stock notes then due. The statement of the Bank of Newbern, in January, 1829, showed cash liabilities $961,041; cash assets $115,768. The bills receivable were $1,427,216. In a note, it is stated that this report is as correct as can be made, on account of the confused state of the books. The accounts of the late cashier were under investigation. The defalcations of all persons in positions of trust during this entire period constitute a social feature. Some States carried along, as an appendix to their session laws, a list of persons through whose hands public money had passed, and who had failed to return it. The accountability which is a test and guarantee of all financial affairs grew up very slowly, and, in the early part of the century, was extremely weak. The lack of it went far to account for the calamities of banks. The great banks in the southern and south-western States furnished lamentable proofs of the effects of a want of it.

Acts were passed to enable the Bank of the State, the Bank of Newbern, and the Bank of Cape Fear to wind up "gradually, and to fix a uniform rate of collection."

The new Bank of the State of North Carolina‡ redeemed the issues of the Bank of the State, with which we have been acquainted up to this time, and of the Bank of Newbern.§ The affairs of the old Bank of the State were closed in 1837, a dividend of six per cent. being awarded.‖ The dividends on the State stock, in the Bank of the State and the Bank of Newbern, were employed in retiring the treasury notes, which were burned; but in 1836, $50,887.75 of them, of the issues of 1814, 1816, and 1823, were reported still outstanding.¶

SOUTH CAROLINA.—The charters of the State Bank and the Bank of the State of South Carolina were extended December 21, 1822, for twelve years, each to pay a bonus to the State of $20,000. The Dorchester Free School was authorized to pay all its funds into the Bank of the State; the profits on the same to be paid by the bank to the commissioners of Dorchester. The Bank of Hamburg was chartered in 1822 to last until 1837, and the Bank of Cheraw in 1824, to last until 1836.

There appears to have been some difficulty in the Bank of the State, in

* Raguet; Currency and Banking, 112; Gouge; Journal of Banking, 334. † Session Laws, 1829-30, 99.
‡ See page 238. § Treasury Report, January 4, 1837. ‖ 1 Raguet's Register, 235.
¶ Session Laws, 1836; Appendix 15.

1824, when a committee was appointed to investigate it and report whether there had been any mismanagement. Perhaps as a consequence of this, private stockholders were allowed to be admitted by a law of December 20, 1826. Commissioners were to be appointed to value the existing assets, which the State should make equal to $1.2 millions; individuals might subscribe $1.6 millions, paying $20,000 bonus on each million. The charter was to be extended until 1848, but after 1840 the State might withdraw its capital. The next year another law was passed for the same purpose; but either the plan failed or the opponents, who wanted the bank to remain a purely State institution, prevailed; for the act was repealed December 19, 1828.

One Billis, having altered a note of the Bank of the State, pleaded on his trial that it was a bill of credit. The Supreme Court of the State decided to the contrary, laying stress on the fact that the bank had a real capital on the credit of which the notes were drawn.* A debt to this bank was held not to be a debt to the State having such priority as a debt to the State would have.†

GEORGIA.—The Committee on Banks reported in 1824 that all the banks were sound. The same report was repeated a year later by a committee which had been examining them during the recess, but they added that there were not banks enough, for which reason the notes of out-of-State banks circulated. December 20, the Marine and Fire Insurance Company of Savannah was incorporated with banking privileges, and, December 24, the Bank of Macon, with $300,000 capital on which the State had an option of $50,000; to last until 1850.

By Joint Resolution of May 31, 1825, it was ordered that the Treasurer should take Darien notes in all payments to the State, They were then at fifteen or twenty per cent. discount.‡

A law of December 22, 1826, provided that if any bank or broker should collect the notes of any bank and present them for redemption, not more than four per cent. interest should be paid on them. If any one who demanded specie was suspected of being the agent of any bank, he might be put to oath, and if he acknowledged that he was such, he could obtain only four per cent. per annum on the amount he held. Individuals, except brokers or their agents, were to have the same rights as hitherto. The charter of the Bank of Augusta was extended December 22, 1826, until 1850, and the capital might be increased to $600,000. The charter of the Marine and Fire Insurance Company was amended December 24, 1827, so that if its notes were presented for redemption by any bank, it might redeem them with the notes of that bank; and that its branches might be compelled to take only each its own notes. December 26th, the Merchants' and Planters' Bank of Augusta was chartered; capital, $300,000; $20,000 at the option of the State. This charter contained a new provision similar to that

* 2 McCord, 12. (1822.) † 3 McCord, 377. (1825). ‡ 29 Niles, 99.

which was common in Connecticut,* that any religious, charitable, or literary institution incorporated by the State might deposit not more than $50,000 and have scrip for it at par of the stock, entitling it to dividends on the same terms as the stockholders. If it was desired to sell this stock, it must first be offered to the bank at the price paid for it. This bank was to last until 1858.

The Committee on Finance reported, December 22, 1826, that the cash balance in the treasury of the State was $792,122. Of this $590,301 was in notes of the Bank of Darien. November 21, 1827, the same Committee recommended the acceptance of an offer by the Bank of Darien, to pay in notes such as were receivable at the treasury, $75,000 each half year until its notes in the treasury were redeemed. The amount, December 11th, had been reduced about $100,000; the remainder was sealed up in six packages of varying amount, and left with the Treasurer. In 1826, the notes of the State Bank of Georgia were quoted at Philadelphia at four discount; at the end of the year they were a little worse than the other Georgia notes.†

The Central Bank of Georgia was another attempt to construct a great Bank of the State, as an improvement on the existing bank which bore that title. It was incorporated December 22, 1828, and founded on the funds of the State. The surplus in the treasury, the shares owned by the State in the Planters' Bank, Bank of Augusta, of the State, and of Darien, with all the credits and unliquidated claims of the State were put in the capital. The directors were to collect all these, but were to give extensions to the debtors of the State such as were customary on accommodation paper. The revenue from taxes and dividends was to go into the bank; the Governor to appoint three directors, each of whom was to give $100,000 bonds, and the cashier the same; to discount notes of two or more endorsers; debts not to exceed the capital; to last until 1840; all accommodation notes to be renewed every six months, six per cent. interest being paid in advance. The directors "shall loan as much money upon accommodation paper as the interest and safety of said bank will permit," and not call for more than 20 per cent. per annum on these loans unless the exigencies of the bank require it. The directors were to prepare notes as soon as they should be appointed, and to draw on the Governor for the expense; they were to "distribute their loans as equally as practicable among the citizens of this State, having due regard to the population of the different counties;" maximum loan to be $2,500; never to issue more than the aggregate it possessed of the notes of other chartered banks of the State and United States Bank notes and specie; to take no note for collection; to be suable. There was no provision for redemption of the notes. By an amendment to this charter, December 19, 1829, it was provided that debtors to the State for land might have their notes discounted in this bank, and upon filing with the Surveyor-general a certificate of the cashier "that his said debt has been fully settled

* See page 42.

† Elliot's Funding, 1116.

by note or notes," such debtor may demand of the Governor such a title as he would have obtained on full compliance with the original contract. In the Central Bank of Georgia *vs.* Little,* it was decided that a debt to this bank was not on general principles such a debt to the public as would have priority of payment from a decedent's estate, but the Legislature could give priority to debts to the bank and it had done so by the charter. As to the bank, the State had divested itself of its sovereign character. "Bills of credit * * * are such as are drawn or issued by the State upon the general credit thereof, without the appropriation of any specific fund for the payment or ultimate redemption of such bills."

It appears that the notes of the Darien Bank lying in the treasury† were amongst the assets which were delivered to the Central Bank. The contract with the Darien Bank that it should pay $75,000 every six months was re-affirmed, and the Central Bank was forbidden to demand more, December 22, 1829. A Legislative committee had reported, at the beginning of this session, in November, that the Darien Bank was sound again; that its notes were at par, having recovered from great depreciation; and that it had emitted new notes, which it was fully within its power to redeem. All the other banks were also reported to be in fine condition. A report was also made on the Bank of the State of Georgia, which dealt chiefly in complimentary commonplaces, as indeed all the other reports about banks at this session did; but the following passage occurred in it: "The Bank of the United States, wielding an immense capital, with powers more dangerous and imposing than ever were intended to be granted by the State, has and will, during its corporate existence, have a blighting influence on the State institutions, which will be felt as that influence is used by those who direct its operation and regulate its intercourse with the State institutions." This appears to show that the friction of 1820 had left an enduring inflammation behind.

A heavy fine was laid on the issue of notes under $1, November 25, 1830. All previous penalties which had been laid were remitted if the issuers would make tax returns and pay taxes on their capital.

In March, 1828, there were said to be excessive exports of specie. "Gold has disappeared." The banks were in distress, but dray-loads of specie were coming into Baltimore, or rather passing through, for three hundred thousand dollars' worth of it is said to have been sent on, and Niles reckoned up seven hundred and fifty thousand dollars, "which New York has gathered to herself within a few days, the whole of which is probably on its way to England."‡ He tried to connect all this with the tariff, especially as it affected wool, but he had recorded, just before, the fact that there was a loss on all the dollars brought from Valparaiso and that it would have

* 11 Georgia, 346. (1852). † See page 179. ‡ 34 Niles, 35.

been profitable rather to bring wool and sell it at cost, if there had been no duty.* He always used the importation or exportation of specie as an indicator of prosperity or the reverse. He was now compelled to change his argument, which he did by saying that the exportation of specie proved that there was no reciprocity in trade. The Americans worked for specie only to send it to England.† The Baltimore Bank would take only notes which were depositable in New York and Philadelphia.‡ There was a great stringency in money and fall in prices. The auctions were said to be crowded with goods from England. With exchange at 111 and discount rates high, United States Bank stock advanced, being used probably as a remittance.§ In October of 1830 specie was flowing into the United States in abundance. It was being exported from England both to the United States and to the Continent.‖ In January, 1831, the influx of specie had become an incumbrance. The banks did not have room in which to keep it.¶ Niles says that this is the good result which he had promised, yet he states that the Baltimore banks would not pay the cost of bringing silver from Philadelphia to get it. Capital was plentiful. He puts the specie in the banks of the United States at thirty million dollars, besides ten million dollars in circulation.** In April he says that great sums have been sent to the United States for investment, through the Bank of the United States, on account of apprehensions in Europe.†† In October we find him complaining once more that money is very scarce among all who depend on bank accommodation, and that six or seven millions of dollars have lately departed for England. Prices are falling under forced sales.‡‡ In 1831 the Bank of England exported specie and curtailed its circulation.§§ In February, 1832, there are complaints of a great stringency of money and exportations of specie with bankruptcies because banking assistance is refused. There is a great contraction of the currency.‖‖ In the same month McDuffie, in a report to the House, said that there was "not nearly enough money afloat to meet the general demand for it."

In the decade from 1820 to 1830, the banks of the Atlantic coast settled down to a system of circulation banking. Out of the troubles of the second decade, some rules and maxims for this kind of banking had been developed, and some men had been trained by experience to its methods. In fact, the system of banking which Hamilton had introduced might be regarded as now operating according to his theory of it, and the Bank of the United States was now acting as a regulator, according to the theory. Gouge, who had studied this system in its operation more thoroughly and with more intelligence than anybody else, maintained that it was a system of alternate expansions and contractions. The years of expansion and "good times" were 1821, 1824, 1827, 1830–31. The years of crisis and "hard times" were 1822, 1825, 1828–9, 1832.

* 34 Niles, 3. † 34 Niles, 35. ‡ 34 Niles, 139. § 34 Niles, 100.
‖ 39 Niles, 105, 174. ¶ The New York "Journal of Commerce" in 39 Niles, 353.
** 39 Niles, 458. †† 40 Niles, 87. ‡‡ 41 Niles, 98. §§ 41 Niles, 379. ‖‖ 41 Niles, 468.

That the system should have tended to these heats and chills seems a necessary consequence of its character. There was no limit to the bank note issue, except the utmost which each bank could keep afloat. The specie reserve was made as small as the banker dared to risk. This specie became the vital nerve of the entire economic system of the country. The jealousy with which it was watched over seemed sometimes ridiculous and sometimes tragic. When things seemed prosperous and the exchanges were favorable, the banker put out his circulation. When one did it, the others did it, and the consequence was a general inflation. Presently the issue became excessive. The exchanges turned and a little specie was shipped. Thereupon, the vital nerve being touched, a shock went through the entire system. Discounts were refused; loans could only be obtained through brokers at extravagant rates; the circulation was contracted very suddenly; the commercial system was arrested; then industry stopped; production was reduced; wages were lowered; and finally the farmers, so far as they were debtors, were reached. This severe remedy operated a cure, and all were ready to begin again. This course was not accomplished, of course, in its complete round every few months. The minor fluctuations touched only the first mentioned part of the industrial organization. The greater ones produced little crises. The banks, generally speaking, sowed the storm and left others to reap the whirlwind. Considering the fact that the bank circulation was very strictly localized, it is possible that the expansions and contractions may have had that prompt effect upon prices which Gouge, Raguet, and others attributed to them. Amongst the evil influences which intensified the effects of these methods, the usury law must be put amongst the very first. Nine-tenths of the evil practices of the banks were due to attempts to evade that law in obtaining rates which were legitimately theirs by the operation of the market.* If they had been allowed to operate on their discount rate, they would have had less motive to operate on the amount of their circulation.

* Raguet, Currency and Banking, 104.



CHAPTER XI.—Continued.

§ 2.—*The Bank of the United States from Biddle's Accession until the Bank War.*

Nicholas Biddle was appointed a government director of the Bank in 1819, and was elected a stockholders' director in 1820. After some contest, he was elected president of the Bank November 25, 1822. The struggle was between two parties in the Bank,—a conservative party, which was satisfied with Cheves's administration, and another which wanted a more enterprising policy. The latter party thought it bad policy to make such a free exposition of the affairs of the Bank as Cheves made in his report of 1822 which was laid before the triennial meeting of the stockholders.*

The Bank held 37,954 shares of its own stock; forfeited collateral. Cheves considered this a useful reduction of a capital which was quite too large. The strictures passed by him in this report on the operations of Smith, Williams, and Buchanan called out a protest from Williams which was sarcastic and angry; but he did not even take up a single one of the allegations of fact. A committee of the directors resolved that Cheves had "fully and satisfactorily proved the facts detailed in his statement of the past and present condition of the Bank."

Biddle took charge of the Bank in January, 1823, when he was only thirty-seven years old. He was of a sanguine and poetical temperament, and it is only fair to him to emphasize the fact that he was surrounded and urged on by a party which applauded bold financiering; at least as long as they could win under his leadership. Nathan Appleton, in the retrospect of Biddle's career, said that it was the opinion of those who watched him "that he was a bold navigator; that he kept his ship under a press of sail, relying upon his skill in taking in canvas in case of a squall; of which he has occasionally given us evidence himself."†

When Biddle took charge, the circulation was $4.3 millions; the specie,

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* See page 97.

† Currency, 27. (1841.)

$4.4 millions; the public deposits, $2.7 millions; credit of public officers, $1.5 millions; private deposits, $3.3 millions; loans, $30.7 millions; public stocks, $11 millions.

The Bank had petitioned Congress, in 1818,* for an amendment to the charter to allow some other person than the president and cashier of the parent Bank to sign the notes; but the petition had been refused. This labor was very great, the circulation then being over $8 millions. The reason for not letting any one but the president and cashier of the head bank sign the notes was that the variety of signatures would make the notes non-uniform, which was one of the evils the bank was intended to correct. The Senate authorized the appointment of special officers for this duty, but the House declined, chiefly, as it appears, on the ground that the big Bank would get too much power over the local banks. Smith of Maryland said that the officers could not sign more than fifteen hundred notes each day, in view of their other duties.† The same petition was renewed in 1820 and again in 1823. In the latter petition, which was made the subject of a report of a committee of the House of Representatives, it was prayed that the part of the charter might be changed which provided that no director, except the president, should be eligible for more than three years in four; that a law should be passed providing for the punishment of persons convicted of fraud on the Bank; that the Board might be authorized to appoint persons to sign notes of the smaller denominations at the parent bank; that the notes of the Bank might be made receivable by law in payments to the United States only at the bank or branch where they are made payable. The committee reported against the first point; in favor of the second and third. In regard to the fourth point, they say that the existing regulation operates as a practical prohibition to issue any notes in the western States and to a like prohibition to issue them to the South during six months in the year. They propose, therefore, that this request also be granted. The document is in fact an exposition of the difficulty in which the Bank found itself, with branches scattered all over the country, in each district of which there was a strictly local currency, while the notes of the national Bank were to be maintained at an equal value everywhere. This committee argue that if the notes of the branches also had only local circulation, specie would be drawn and transmitted when the exchanges so required, and that the expense of this would provide the required check and guarantee on the transactions. No action was taken.‡

The liquidation had reached such a point, in 1823, that the currencies of the different States were all substantially equal on the Atlantic coast, having

* See page 96.

† Gouge, Journal of Banking, 287. Charles Biddle, who was one of the commissioners to sign the United States treasury notes during the second war, said that he signed his name sometimes fourteen hundred times in one day. His maximum was eighteen hundred. (Memoir, 340.) Hugh McCulloch says that he signed his name four thousand times a day, on bank notes, as a day's work; and that, kept up for weeks and months, it was a punishment too inhuman to be inflicted on the most guilty criminal. (Men and Measures, 130.)

‡ 4 Folio Finance, 285.

all been brought to par. The Bank of the United States therefore yielded on the point about receiving branch notes; but it is a significant fact that those notes of large denominations were quoted at one-quarter of one per cent. discount at Philadelphia in 1824.* The usage of the Bank in 1830 was to redeem all its five's everywhere, and generally any small amount anywhere.

It was a trifling incident, but an unpopular one, that the Bank of the United States, in 1823, reduced the rating of pistareens from twenty cents to seventeen cents. It was a necessary consequence of the restoration of the currency to specie value.

The directors of the Bank resolved, December 2, 1823, to "operate in exchange." In the next two years, the active capital was increased by the sale of $3 millions or $4 millions worth of stock which had been forfeited in the stock jobbing operations of 1818. In the same years it took government loans of $10 millions. Gouge asserts that this proceeding brought it and all the other banks in the country, in 1825, to the verge of suspension.† It is certain that the crisis here preceded that in England and was not a direct consequence of it.

Raguet says that formerly the banks of the United States only discounted notes payable on the spot, and if for accommodation they discounted a bill payable at a distance, it was done on the same terms as if on the spot, no profit in the way of exchange being expected. The Bank of the United States began the business of dealing in inland bills of exchange, buying and selling bills on all points where it had branches upon terms which gave it a profit. He regards this dealing as mischievous for reasons which are connected with the expansions and contractions of the currency; that is, at different places the Bank makes money easy when it wants to sell bills and tight where it wants to buy them. He represents the Bank as trying to act as the arbiter of exchange. This had been claimed as a merit on its part by its friends. The suggestion is that the Bank creates and overrules the exchange and does not follow the market.‡

April 9, 1825, seven expresses arrived at Philadelphia from New York in one day with news of a great rise of prices in the markets of Liverpool and London. All prices advanced, especially cotton. In July the price of cotton fell 3d. a pound at Liverpool. This produced a crisis in New York with many failures. "Many of the banks were in great difficulties. Several of them broke, and such were the straits of the United States Bank that one of the directors talked publicly on the exchange at Philadelphia of the expediency of suspending specie payments." Biddle wrote that the storm passed over this country a few weeks earlier than over England. He had never felt any uneasiness about the banks of this country except on that occasion. October 1st, the government paid off a loan of $7 millions, nearly half of which was payable at Philadelphia, whereby the United States Bank was brought in debt to the local banks of Pennsylvania and New York. It sold

* Elliot's Funding, 1114. † Journal of Banking, 69. ‡ Currency and Banking, 114, 121.

its funded debt for nearly $2 millions, and some bank stock besides, and extricated itself by November 1. Two circumstances increased the difficulty: a demand for specie for the British army in Canada and a demand for specie to found a bank at New Orleans. "I went immediately to New York," says Biddle, "where I sought the gentleman who was preparing to draw specie from the banks of Philadelphia in order to send it to New Orleans, and gave him drafts on that city. These drafts were not given to protect the Bank itself, which was then a creditor of the Philadelphia banks for more than the amount of them, but they were employed to arrest from these city banks a drain which could not fail to embarrass them." He declared that he had met the panic by an increase of the loans of the Bank at that time.*

The specie in the Bank of the United States in July, 1821, was $5.8 millions. It declined to $3.3 millions one year later. Then it increased steadily to $6.7 millions, January, 1825. In July it was down to $4 millions, and in the following January to $3.9 millions.†

In 1827, the Bank renewed its petition with regard to the compulsion on the chief officers to sign the notes; once more in vain. This led to the revival of the use of branch drafts. They were drawn by the cashier of any branch on the parent Bank, to the order of some officer of the branch, and endorsed by the latter to bearer. They then circulated like bank notes. At first the denominations were five's and ten's. In 1831, twenty's were added. They were also payable at the place where issued. Binney, Wirt, and Webster gave opinions that these drafts were legal. The Secretary of the Treasury approved of them and allowed public dues to be paid in them. They were a most unlucky invention. Most of the subsequent real trouble of the Bank can be traced to them. Immediately upon their re-introduction, the "race-horse bills" reappeared,—that is, drafts drawn between the different places where there were branches, so that a bill falling due at one place was met by the discount of a bill drawn on another place. The name, which is said to have been invented by Cheves, was derived from the nimbleness which was required of the drawers to keep up with the system. The device largely robbed the Bank of the control of its own business.

The receipt of branch drafts at New York in 1828 was nearly $12 millions and in 1829 over $11 millions. The total receipt of them in 1828 and 1829 at Philadelphia, New York, Baltimore, and Boston was over $37 millions. They became the medium with which the South and West paid for its purchases.‡ Gallatin said of them that they "are of the same character, depend on the same security, and in case of failure, would share the same fate with bank notes. Though not usually included in the amount of the circulation of the Bank, we cannot but consider the average amount in actual circulation as making part of the currency of the country."§

In December, 1827, the Bank of the United States was able, by putting

* 22 Cong., 1 Sess. 4 Reports, 460. † Treas. Rep., Jan. 15, 1838. ‡ Gouge; Journal of Banking, 396.
§ 3 Writings, 265. (1831).

out its branch drafts to stop the circulation of the notes of the Cape Fear Bank of North Carolina. To this operation of the branch drafts Gouge attributes in part the difficulties of 1828.*

At the triennial meeting of the stockholders, in 1828, the enthusiasm was very great over the good management and prosperity of the Bank. The increase of the value of real estate at Cincinnati made it probable that the loss there would be recovered. The suspended debt was $7.1 millions. The whole anticipated loss was $3.1 millions, to meet which there were reserves, etc., for $2.9 millions. The domestic exchange business was $22 millions, on which the profits were nearly half a million. The circulation was $13.4 millions; the specie $5.8 millions; the loans $31.5 millions.† Commenting on this report, Niles said: "The Bank now appears devoted to the purposes for which it was instituted, with much steadiness and great care, and, on that account, deserves well of the country," but he clung to his conviction of its unconstitutionality. He apprehends trouble from the multitude of five-dollar notes issued by the branches, many counterfeits on them being already in circulation. These are facilitated by the great number of different signatures. The last detail shows that he means branch drafts.‡

There was great popular suspicion and jealousy of the operations of domestic exchange at this period. The charges were thought to be unwarranted, which the Bank made for drafts between different places. If the great Bank secured through its branches, as it appears to have done, all the internal exchange business of the entire country, it would indeed, by promising to pay everything, never need to pay anything, but settle the whole by bookkeeping balances. It appears that it charged only such rates as might be considered a commission for the facilities thus offered. The best proof we have of this is in a statement of the inconvenience which was suffered, and the greater expense which was incurred, after it was destroyed.§ Wickliffe declared in the Senate of Kentucky, in 1838, that one purpose of chartering the Southwestern Railroad Bank, was to "redeem the trade of the South and West from the shameful brokerage and shaving on the exchanges practiced by the banks of the South and West since the fall of the United States Bank."

On the other hand Nathan Appleton affirmed that "The late United States Bank took care to charge the highest rates for exchange which the alternative of transporting specie would admit." Biddle acquired a very thorough understanding of all the movements of trade inside of the United States. In an Essay published in 1828, he describes some of these operations: "A merchant borrows from the bank and sends abroad $100,000 in coin or he buys bills from one who has shipped the coin. With these he imports a cargo of goods, obtaining a long credit for the duties, sends them to auction where they are sold, and the auctioneer's notes given for them.

* Gouge; Journal of Banking, 384. † Annual Register, 1827-8-9, I, 577. ‡ 35 Niles, 37.
§ See pages 338-9.

These notes are discounted by the banks, and the merchant is then put in possession of another $100,000 which he again ships and thus he proceeds in an endless circle, so long as the banks by discounting his notes enable him to send the coin and tempt him to do so by keeping up prices here by their excessive issues. The banks, therefore, begin by diminishing or withdrawing these artificial facilities, leaving the persons directly concerned in this trade to act as they please with their own funds, but not with the funds of the banks. The immediate consequence is that the auctioneers can no longer advance the money for entire cargoes; that they no longer sell for credit but for cash; that the price of goods falls; that instead of being sold in large masses they are sold slowly and in small parcels, so that the importer is not able to remit the proceeds in large amounts. This diminishes the demand for bills and for specie to send abroad. * * * Time is thus gained until the arrival of the southern exchange which will supply the demand without the aid of coin and then everything resumes its accustomed course."

Upon this occasion it suited the Bank to stand off from the market, and Biddle made the following exposition of the policy which it had pursued. As we shall see, on other occasions, when it suited his purpose to adopt the policy of interference and paternal control, he found grounds for that as good as those he here gives for the let-alone policy.*

He says that the exportations of specie in the winter of 1827-8, and the imports of goods were very large. The cotton bills were late in coming forward, so that the demands for payment fell on the vaults of the Bank. "Such an effect was to be averted without loss of time. The directors of the Bank of the United States, as was their natural duty, were the first to perceive the danger, and the Bank was immediately placed in a situation of great strength and repose." He thinks that but for the restrictions placed by the Bank of the United States on the local banks the latter would, within the previous six weeks, have been brought to the verge of insolvency. He says that the people are extragavant and contract debts imprudently. "The Bank of the United States is invoked to assume that which whoever attempts deserves the ruin he will suffer. It is requested to erect itself into a special providence, to modify the laws of nature, and to declare that the ordinary fate of the heedless and improvident shall not be applied to the United States. * * * But if the Bank of the United States blends any sense with its tenderness, it will do nothing of all this." The most remarkable passage in the essay, however, is the one which describes banking on a mixed currency. The writer was a master of the art he described, and the literary merit is so high that the passage is fit to be incorporated in a text book of the subject. "The law of a mixed currency of coin and paper is that when, from superabundance of the mixed mass, too much of the coin part leaves the country, the

* See page 208.

remainder must be preserved by diminishing the paper part, so as to make the mixed mass more valuable in proportion. It is the capacity of diminishing the paper which protects it. Its value consists in its elasticity; its power of alternate expansion and contraction to suit the state of the community, and when it loses its flexibility it no longer contains within itself the means of its own defense and is full of hazard. In truth, the merit of a bank is nearly in proportion to the degree of this flexibility of its means." If a bank lends on long terms with renewals, its debts cannot be called in at once, while its notes are payable on demand. "This is the general error of banks who do not always discriminate between two things essentially distinct in banking, a debt ultimately secure and a debt certainly payable." If a bank which lends only on short business paper finds its coin called for, it lends less every day than what is paid in. "The operation proceeds thus: by issuing no new notes, but requiring something from your debtors, you oblige them to return to you the bank notes you lent them or their equivalents. This makes the bank notes scarcer; this makes them more valuable; this makes the goods for which they are generally exchanged less valuable, the debtor in his anxiety to get your notes being willing to sell his goods at a sacrifice; this brings down the prices of goods and makes everything cheaper. Then the remedy begins. The foreigner, finding that his goods must be sold so low, sends no more; the American importer, finding that he cannot make money by importing them, imports no more. The remainder of the coin of course is not sent out after new importations, but stays at home and finds better employment in purchasing these cheap articles, and when the foreigner hears of this state of things, he sends back the coin he took away. * * * We therefore get back our coin by diminishing our paper and it will stay until drawn away by another superabundance of paper. Such is the circle which a mixed currency is always describing. Like the power of steam, it is eminently useful in prudent hands, but of tremendous hazard when not controlled, and the practical wisdom in managing it lies in seizing the proper moment to expand and contract it, taking care, in working with such explosive materials, whenever there is doubt, to incline to the side of safety."*

This is the art of the "complete banker" of the period. It describes the bankers in full possession of an "elastic currency," and manipulating it to the full limit of its capacity of vibration. How could any business firm, which relied on bank accommodations, traverse ten years of it?

From 1820 to 1826 the Bank did very little business in New England, New York, or the South and West. From 1826 to 1832 it did a very large business in the Mississippi Valley, but still little in New England or New York.† After 1832 its business was more evenly distributed over the country.

In 1830, the Bank of the United States began to draw bills on England to be negotiated beyond the Cape of Good Hope, thus diminishing the export

* National Gazette, April 12, 1828.

† 3 Gallatin's Writings, 453.

of specie. This was one of the causes of the accumulation of silver here at the end of 1829 and in 1830 and 1831.*

In the early twenties the circulation of the Bank was $4 millions or $5 millions. Towards 1830 it increased to $10 millions. In July, 1830, the Bank had $12.1 millions in specie. Its usual full stock had been between $6 millions and $7 millions. In July, 1831, it held $7 millions, the minimum of the period at the end of the second decade.

The Government paid $3 millions on its stock note in the Bank in 1830, and the other $4 millions in 1831, so that after that it was a holder for value.

It is stated that the annual expense of the Bank in 1821 was about $300,000; in 1833, it was put at $500,000, including all the branches.†

In 1829 Secretary Ingham expressed great satisfaction with the way in which the Bank made transfers of public money, and also with its arrangements for paying the public debt, as he said, in that year of commercial distress, "without causing any sensible addition to the pressure, or even visible effect upon the operations of the State banks."‡ In the President's message of the same year he said, with reference to the debt payment of the previous July: "It was apprehended that the withdrawal of so large a sum from the banks in which it was deposited, at a time of unusual pressure on the money market, might cause much injury to the interests dependent on bank accommodations, but this evil was averted by an early anticipation of it at the Treasury, aided by the judicious arrangements of the officers of the Bank of the United States." It was indeed in operations of this kind that Biddle was most skillful.

* Gouge; Journal of Banking, 395.
† 19 Niles, 269; Gouge; Journal of Banking, 128.
‡ Quoted in the Letter of the Bank to the Committee on Ways and Means, Jan. 28, 1833.

PERIOD IV.—1829 TO 1845.

The War of the Jackson Administration on the Bank of the United States Breaks up the Existing System of Banks and brings in Local Banks again as Currency-Providers and Fiscal Agents. Another Bank Inflation, Crisis, and Liquidation Ensue. The Bank of the State Institution Undergoes Great Extension and Variation.

CHAPTER XII.

The Bank War.

THE opposition party which was forming around Jackson during Adams's administration, especially the southern and western wing of it, was disposed to put opposition to the Bank of the United States on its program. At the session of 1827-8, P. P. Barbour brought forward a proposition to sell the stock owned by the United States in the Bank. The debate which followed is chiefly important as showing to what an extent the Bank had lived down the evil reputation of its first years, and how difficult it was to start a movement against it. The stock fell two points when the proposition was made, but recovered when Barbour's resolution was tabled, 174 to 9.

Jackson was inaugurated March 4, 1829. The campaign had been passionate and malignant on both sides, but there was peace and prosperity in spite of monetary stringency. "The currency of the country was as sound in the year 1829 as may probably be expected under any system which admits the substitution of paper for the precious metals."* The United States Bank had lived down its early bad behavior, and was accepted as one of the fundamental institutions of the country. It is true that it was allowed to pass with reservations by many democratic politicians of the old school, who still denied its constitutionality, but only on dogmatic grounds.

* 3 Gallatin's Writings, 390. (1841.)

In the campaign of 1824 only the faintest suspicions of political influence exerted by it had found expression. When, however, in any arena a power is present which might be of decisive importance as an ally of one party or the other, it is inevitable that its alliance will be contended for by them. Its efforts to remain neutral will be vain, and will expose it to greater danger from both than an alliance with either. Either party which thinks that it has lost the chance of winning the alliance will turn against the intervening power with fierce animosity, and will try to destroy it or drive it from the arena. This is what happened in the case of the United States Bank. As an ally it might be of the utmost value to either political party; as the ally of an opponent it was dreaded and detested by either. The federalists had opposed the charter because the Bank was to be organized under democratic auspices. By the natural tendency of things, however, it had gravitated into the hands of the capitalist class. It was enough, therefore, for the democrats to know: It is not on our side.—Hence we find that the charges against it are prognostications. It is said that it is a dangerous power, that it may win control, decide elections, defeat the will of the people, etc., all of which means that it may defeat us. The conflict was therefore irrepressible, and the Bank war may be held to demonstrate that a national bank in this country is impossible, because it would be sure to become an object of conflict between political parties. During the fifteen years of political strife over banks, banking, and currency, which began in 1829, angry recriminations were often exchanged as to who dragged these subjects into politics. Priority depended on the question whether Jackson found the United States Bank, as he said, active in politics at his accession or not. The answer of history must be that he did not; that he and his followers provoked the conflict, and were responsible for it.

There was no new element in the Bank war of Jackson's time. It was only a revival of antagonisms which we have seen in play around the Bank of North America and the first Bank of the United States.

If Jackson intended to open a war on the Bank, it is strange that he should have chosen a Pennsylvanian, Samuel Ingham, as Secretary of the Treasury. It fell to the lot of that gentleman to open the war on the institution, of which all Pennsylvanians were especially proud. After the report of the Investigating Committee on the Bank of the United States, in 1832, he published an apology for his own action in the matters which are about to be narrated, in which he said that, soon after he entered on the duties of his office, he heard the President make frequent declarations in conversation which showed that "he had imbibed strong prejudices against the United States Bank and was distinctly opposed to the existence of that institution," and that he (Ingham) was "appealed to as the head of the department charged with official intercourse between the government and the Bank for protection against what was termed the political abuses of that establishment. It was often stated to me that the branches in Louisiana and Kentucky had greatly abused their power for political purposes, not only in

elections for the general government, but in State elections, from whence it was inferred that other branches had done the same elsewhere." The specification under this last head was the above mentioned interference in Kentucky, in 1825,* which was asserted by Kendall, although, when he endeavored to obtain corroboration for it from his informant, he failed to do so.† The "Louisville Advertiser," speaking from an inside knowledge of the managemement of the old court campaign of that year, contradicted the assertion that any aid had been given by the Bank of the United States, and the president and seven out of eight surviving directors of the Lexington Branch published affidavits denying that their bank had ever contributed to the funds of any political party. This one disputed allegation of fact was made to bear a tremendous superstructure of assertion, inference and conviction.

Our narrative will now follow the order of events in time, although the facts were not known to the public until 1832.‡

June 27, 1829, Levi Woodbury, Senator from New Hampshire, wrote to Ingham a confidential letter, in which he made complaints of Jeremiah Mason, the new president of the Portsmouth, New Hampshire, branch of the Bank of the United States; because, first, of the general brusqueness of his manner and, second, of his severity and partiality in the matter of loans and collections. He added that Mason was a friend of Webster. "His political character is doubtless known to you."§ He added that the complaints were general, and while referring to the fact, as a matter of common notoriety, that all banks were political, he said that the complaints in this case were made by adherents of all political parties.

Ingham inclosed this letter to Biddle, writing: "The character of Mr. Woodbury justifies the belief that he would not make such a charge upon slight or insufficient grounds, and from some expressions in his letter it may be inferred that it is partly founded on a supposed application of the influence of the Bank with a view to political effect." He said that the administration wanted no favors from the Bank. Public opinion in the vicinity of a bank was the best test of the truth of such charges. Biddle replied that he would investigate.

In his apology "To the Public," in 1832, Ingham interpreted this first letter of his as follows: in transmitting Woodbury's letter he felt bound to let the Bank know "that some jealousy existed as to the integrity of some of their officers," in order to give them a chance to make a defense which he could use against those influential persons at Washington who were pushing him on to take action hostile to the Bank. This is only another way of saying that the purpose was to draw Biddle out. Whether it was from a deep and crafty calculation, or only from a fortunate chance with respect to

* See page 133.
† 42 Niles, 315.
‡ Adams's Report with Documents, 22d Cong., 1st Sess., Reports IV., No. 460, p. 438.
§ In 1816, as Senator from New Hampshire, Mason opposed the charter of the national bank.

the purpose in view, he certainly entrapped Biddle as if he had known the deepest weaknesses of the latter's character. After Biddle's troubles came, somebody said that he should never have been anything but a professor of belles lettres. He wrote with great facility and good literary skill, but his great weakness was to write too much. In his first reply to Ingham he wrote a long letter, without apparently imagining that he had to deal with any active hostility, opening points at which his enemies could attack him. He said that Mason had been appointed to a vacancy caused by the resignation, not by the removal, of his predecessor; that the salary of the position had not been increased for Mason; that after Mason's appointment Webster had been asked to persuade him to accept. He quoted a letter from Woodbury to himself in July in which Woodbury said that Mason was as unpopular with one party as the other, from which Biddle inferred, no doubt correctly, that Mason, as banker, had done his duty by the Bank without regard to politics. Biddle further explained that the branch had previously not been well managed and that Mason had been appointed as a competent banker and lawyer to bring about necessary reforms. It is easy to see that Mason, in this attempt to reform the bank, had to act in a manner which, in those days, was considered severe, and that he disappointed those who, on account of political sympathy, expected favors but did not get them.

Biddle had thus played directly into the hands of his enemies in his first letter. "I chose," says Ingham, "rather than leave suspicion to interpret my silence, to make a frank avowal of the principles which, it appeared to me, ought to regulate the actions of the Bank." Every one of the suggestions which he put in stung Biddle to controversy. The latter even was compelled to write a second letter, in which he recurred more fully to the point about politics, declaring that the bank had nothing to do with politics; that people were all the time trying to draw it into politics; but that it always resisted.

To this Ingham replied, July 23, insisting that there must be grounds of complaint and that exemption from party preference was impossible. He added that he represented the views of the administration. Ingham says that this letter unfortunately fell into the hands of General Cadwallader, the acting president, who, instead of strengthening the case of the Bank by furnishing Ingham with some reply by which he could silence its enemies, made it weaker by still more positive asseverations that the Bank had never meddled with politics, which, says Ingham, was far beyond what he could know, in view of the number of branches and officers scattered all over the country, while Ingham supposed that he had positive knowledge that at least one such case had occurred.

In the midst of this correspondence, in August, the Secretary of War ordered the pension agency transferred from the Portsmouth branch to the bank at Concord, of which Isaac Hill had been president. The parent Bank forbade the branch to comply with this order on the ground that it was illegal. The order was revoked.

Biddle had visited the Buffalo and Portsmouth branches during the summer. September 15, he wrote again to Ingham. He says that two memorials have been sent to him by Isaac Hill, Second Comptroller of the Treasury, one from the business men of Portsmouth, and the other from sixty members of the Legislature of New Hampshire, requesting Mason's removal, and nominating a new board of directors, "friends of General Jackson in New Hampshire." There is a co-ordination about these numerous petty attacks which makes them look as if they had been planned by the clique at Washington which was hostile to the Bank. If the purpose was to sting Biddle into imprudence, they met with complete success. The tone of his letter is sharp and independent. Ingham had not formulated any definite statements of fact or opinion. He had dealt in inuendo. Biddle formulated the issues which, as he perceived, lurked in the inuendo. He denies that public opinion in the community around a bank is any test of bank management, and declares that the reported opinion at Portsmouth upon examination "degenerated into the personal hostility of a very limited and for the most part very prejudiced circle." He then takes up three points which he finds suggested in Ingham's letters: first, that the Secretary, by virtue of the relations of the government to the Bank, has some supervision over the choice of officers of the Bank; second, that there is some action of the government on the Bank, which is not precisely defined, but of which the Secretary is the proper agent; third, that it is the right and duty of the Secretary to make known to the president of the Bank the views of the administration on the political opinions of the officers of the Bank. To these points he rejoined that the board of directors of the Bank acknowledge no responsibility whatever to the Secretary, in regard to the political opinions of the officers of the Bank; that the Bank is responsible to Congress only, and is carefully shielded by its charter from executive control. He indignantly denies that freedom from political bias is impossible; shows the folly of the notion of political "checks and counter-balances" between the officers of the Bank, and declares that the Bank ought to disregard all parties. He would have won a complete victory on the argument of his points, if he had been before an impartial tribunal, but he stung Ingham's vanity, and on the main issue he delivered himself into the hands of his enemies.

"It never occurred to me," says Ingham, in his apology of 1832, "that these [my] friendly intentions could be so misunderstood, or my expressions so perverted and misrepresented, as they were found to be in Mr. Biddle's letter of the 15 September." He calls Biddle's denial that the Bank ever made or withheld a loan for political reasons "too confident if not presumptuous;" and laments that his own "motives were misunderstood and his friendly purposes wholly disappointed." Instead of being furnished with a triumphant answer with which to defeat the enemies of the Bank, he found himself forced to defend himself from the charge of trying to "seduce" the Bank into political relations with the administration; hence his letter of October 5th.

That letter is smooth, courteous, and plausible; but with a knowledge of the ideas and sentiments which were behind it in the administration circle, it is full of menace and deep hostility. Ingham discusses the points implied by him, but in form raised by Biddle, as if they had been brought forward by the latter. He says that if the Bank should abuse its powers, the Secretary is authorized to remove the deposits. Hence the three points which Biddle found in his former letter are good. It does not appear that Biddle, up to that time, had ever thought of this power as within the range of the discussion, or of the exercise of it as amongst the possibilities. Ingham says that there are two theories of the Bank: first, that it is exclusively for national purposes and for the common benefit of all, and that the "employment of private interest is only an incident—perhaps an evil,—founded in mere convenience for care and management." Second, that it is intended "to strengthen the arm of wealth, and counterpoise the influence of extended suffrage in the disposition of public affairs," and that the public deposits are one of its means for performing this function. He says that there are two means of resisting the latter theory: the power to remove the deposits, and the power to appoint five of the directors. He adds that if the Bank should exercise political influence, that would afford him the strongest motive for removing the deposits.

Biddle's reply of October 9th is still gay and good-natured. He recedes from the controversy, only maintaining that it is the policy of the Bank to keep out of politics.* Ingham in his reminiscences of 1832 says that this letter showed a disposition to do him justice.

In Ingham's letters of July 23 and October 5 is to be found the key to the Bank war. In the first place the Bank is viewed as a political engine. The Secretary argues that the Bank cannot keep out of politics; that its officers ought to be taken from both parties; and that if it meddles with politics, he will punish it by removing the deposits. The only escape from the situation thus created is to go into politics on his side. If the Bank does not do so, it is an enemy and must be treated as such. In the second place, the most important point in the whole correspondence is Ingham's attempt to define the issue between two different theories of the political philosophy of a national bank. The second proposition which he formulated expounds the notion which the Kentucky relief men had developed about the Bank, and which they attributed to it as the theory and purpose of its existence. It was indeed ridiculous to allege that the stockholders of the Bank had subscribed $28,000,000 in order to go crusading against democracy and universal suffrage; but we must bear in mind also that there was, as there always had been, a very large party all over the Union, who believed that, as

* The State Rights Party in South Carolina having declared that the local branch of the Bank had actively interfered against them in the State election of 1830, Biddle wrote to the president of the branch that it was one of the principles of the Bank not to interfere in politics at all, and that, while leaving to all their rights and liberties as citizens, it expected its employees to act in conformity with the policy of the Bank in this respect. He called for information which he could lay before the directors to reassure them that the rules of the Bank were not being broken. This letter was not published until 1832. (41 Niles, 478.)

a matter of fact, the Bank in its practical operation was inimical to democracy. After all, this was only a hostile, invidious, and exaggerated construction of the purpose which Hamilton had put forward as the political philosophy of the first Bank.*

The public deposits, including the amount to the credit of disbursing officers, increased suddenly in 1824, being $7.7 millions. They fluctuated between $6 millions and $10 millions from that time until the time of this correspondence. They were sure to increase. They were $10 millions or $12 millions during the following years.

The ultimate agents in bringing on the Bank war were Amos Kendall and Isaac Hill. The origin of Kendall's eager hostility to the Bank can only be inferred.† Jackson is not known to have had any opinion about the Bank when he came to Washington; nor is it known that he had had any collision with the Bank, except that, when he was on his way to Florida as Governor, the branch at New Orleans refused his request that it would advance money to him on his draft on the Secretary of State at its face value.‡ His only public act, in connection with matters at all related to banking and finance, had been in opposition to paper issues and relief.§ Isaac Hill contributed the element of local bank jealousy and party rancor. These two men, either by telling Jackson that the Bank had worked against him in the election, or by other means, infused into his mind the hostility to it which had long rankled in theirs. They were soon reinforced by Blair.

In November, just before Congress met, an editorial appeared in the New York "Courier and Inquirer," containing a series of questions, among which were the following: "Will sundry banks throughout the Union take measures to satisfy the general government of their safety in receiving deposits of the revenue, and transacting the banking concerns of the United States? Will the Legislatures of the several States adopt resolutions on the subject, and instruct their Senators how to vote? Will a proposition be made to authorize the government to issue exchequer bills to the amount of the annual revenue, redeemable at pleasure, to constitute a circulating medium equivalent to the notes issued by the United States Bank?" This editorial was based upon a letter from Amos Kendall.‖ It contains a premonition of the "pet bank" system and also of the scheme of a Treasury note issue,—two alternative projects which recur often in the following years. The article caused some vague wonder, but attracted no serious attention. After the message of the year was published, the retrospect gave it greater importance. Niles republished it, Jan. 30, 1830.

Jackson's first annual message contained a paragraph on the Bank, which struck the whole country with astonishment. "We had seen," says Niles, "one or two dark paragraphs in certain of the newspapers which led to a belief that the administration was not friendly to this great moneyed institution, but few had any suspicion that it would form one of the topics of the

* See page 25 † See page 133. ‡ 2 Parton's Jackson, 596.
§ See page 148. ‖ Memoirs of Bennett, 111.

first message."* After mentioning the fact that the charter would expire in 1836, and that a renewal would no doubt be asked for, the message said that such an important question could not too soon be brought before Congress and the people. "Both the constitutionality and the expediency of the law creating this Bank are well questioned by a large portion of our fellow citizens, and it must be admitted by all that it has failed in the great end of establishing a uniform and sound currency. Under these circumstances, if such an institution is deemed essential to the fiscal operations of the government, I submit to the wisdom of the Legislature whether a national one, founded upon the credit of the government and its revenues might not be devised, which would avoid all constitutional difficulties, and at the same time secure all the advantages to the government and country that were expected to result from the present Bank."

Statistics exist which show the value of the currency in different parts of the country for every year from 1814. These show that the currency had steadily grown toward uniformity at par of specie from 1819 to 1829. No person living could remember when the currency had been as good as it then was, including that of the new States. So much as to the matter of fact; as to the matter of opinion, the correctness of which is open to doubt, there was scarcely anybody amongst the classes conversant with affairs who did not believe that the Bank of the United States was to be credited with having brought about this state of things. The vague and confused proposition of the President about a bank "founded upon the credit of the government and its revenues" caused alarm. What did he mean by it? It sounded like, what it undoubtedly was, a bank on the southwestern Bank of the State plan, or a Bank of the Commonwealth of Kentucky. The stock of the United States Bank declined from 125 to 116, on account of the message. It was supposed that the President of the United States must have knowledge of some facts injurious to the credit of the Bank.

In the House this part of the message was referred to the Committee on Ways and Means, from which a report was made by McDuffie, April 13, 1830. He defended the constitutionality of the Bank and its expediency at every point, and declared the Bank proposed by the President to be very dangerous and inexpedient, both financially and politically—the latter because it would increase the power of the Executive. In the Senate, Smith, of Maryland, reported from the Committee on Finance in favor of the Bank at every point. His topic was the expediency of establishing a uniform national currency. He declared that the notes of the United States Bank were such a currency, and that funds were transferred from Philadelphia to St. Louis, New Orleans, and other extreme points for one-half of one per cent.

When a word of order is given out to a party, the partisans, eager to distinguish themselves by their zeal, hasten to push it to extravagance. It

* 37 Niles, 257.

must therefore be regarded as one of the strongest proofs that the attack on the Bank responded to no strong feeling in the popular mind, that it hung fire for two or three years. The leading politicians in the Jackson party were so committed to the Bank that it was awkward for them to turn against it, and it was at least three years before the local banks, seeing the opportunity which was offered to them, began to join in the war on the Bank. Politically this last effect was the most important of all. It was the formation of the bank democrats, as a wing of the Jackson party, which gave that party its strength and accounted for its great victories.* The bank democrats were all won from amongst those who would otherwise have been whigs. The distribution of the deposits in 1836 weakened them, and the independent treasury alienated them from the democratic party, and brought about the great defeat of the latter in 1840.

The House, May 10, 1830, tabled by 89 to 66, resolutions that the House would not consent to renew the charter, and on May 29th it tabled, 95 to 67, a series of resolutions calling for a comprehensive report of the proceedings of the Bank. As yet there were no allegations against the management of the Bank. The stock rose to 130.

In the message for 1830 Jackson again inserted a paragraph about the Bank, and proposed a new Bank, as a "branch of the Treasury Department." The outline was very vague. It has been interpreted by different writers as approximating to the sub-treasury idea or to the exchequers and fiscal agencies of 1841.

Wayne of Georgia distinguished himself in the effort to sustain the message, which is an interesting fact in view of his subsequent appointment to the bench of the Supreme Court, and his share in the decision of Briscoe's case. He only asked that the message might be referred to a special committee, instead of to the already hostile Committee on Ways and Means. He thought that such a bank as was suggested could be devised, and he wanted it considered by an unprejudiced committee. The House refused, 108 to 76, to grant even this much. Benton offered a resolution in the Senate, February 2, 1831, "that the charter of the Bank of the United States ought not to be renewed." The Senate refused leave, 23 to 20, to introduce it. In July, the Secretary of War ordered the pension funds for the State of New York to be removed from the New York branch. Biddle remonstrated, because there was no authority of law for the order and the Auditor had refused to accept such an order as a voucher in a previous case. Secretary Cass revoked the order March 1, 1832.

The message of the next year was much more tame in regard to the Bank. The President referred to it as a subject on which he had discharged his responsibility. The Secretary of the Treasury, McLane, in his annual report, made a long and strong argument in favor of the Bank. From this it

* The term "bank democrat" at this time is ambiguous. It is often used for those Jackson men who were friendly to the Bank of the United States, but also for those recruits of the Jackson party who were brought in by the local bank interest.

appears that the response to the suspicions aimed at the Bank by the President had been so faint that the administration was ready to give up the Bank war. Perhaps this encouraged the opposition to think that it would be good policy for them to take up the Bank issue. It was in this same month of December, 1831, that Clay was nominated candidate for the presidency in the campaign of the following year. At a conference of his supporters at Washington, he assumed control of the campaign, and claimed a right to make the platform, in a very dictatorial manner.* The chief point of interest then was the tariff, but, for the fight out of doors, he thought that the recharter of the Bank was the strongest issue that could be made. The Clay convention, in its address to the public, said: the President "is fully and three times over pledged to the people to negative any bill that may be passed for rechartering the Bank, and there is little doubt that the additional influence which he would gain by a re-election would be employed to carry through Congress the extraordinary substitute which he has repeatedly proposed."

If we believe that the administration had receded from its attack on the Bank, then there would be a color of truth in Benton's assertion that the Bank attacked Jackson. The friends of the Bank were later accustomed to say that its disinterested friends in both parties had strongly dissuaded Biddle from allowing the question of recharter to be brought into the campaign.† Clay's advisers tried in vain to dissuade him. The Bank could not oppose the public man on whom it depended most, and the party leaders deferred at last to their chief. Adams, however, who had as little passion as any politician of the time, told the Secretary of the Treasury, early in January, that he had "prepared a resolution for bringing to issue, in the House of Representatives, the question of rechartering the Bank."

The position then was that Jackson had made a challenge, had receded from it, and his opponents had taken it up and turned it as a challenge against him. What would he do? It seems that no one who knew the facts of his career could doubt what he would do. He would return to the issue and would fight it out, regardless of all considerations whatsoever, to a definite and conclusive victory or defeat. That is what he did do.

On the 9th of January, 1832, in prosecution of the Clay program, the memorial of the Bank for a renewal of its charter was presented in the Senate by Dallas and in the House by McDuffie, both of whom were democrats but in favor of the Bank. The Bank wanted Webster or some such unequivocal friend to present the memorial, but Dallas claimed the duty as belonging to a Senator from Pennsylvania.‡ There was great dissatisfaction with him for the way in which he managed the business. He intimated a doubt whether the application was not premature, and a doubt about the policy of the memorial, lest "it might be drawn into a real or imaginary conflict with some higher, some more favorite, some more immediate wish or purpose of

* 8 Adams's Diary, 445. † Ingersoll, Second War, 268. ‡ 1 Sargent, 215.

the American people." In both Houses the reports were favorable. The proposition to recharter had called out a number of wild and extragavant propositions, and it was thought expedient to close the matter up as soon as possible, in order to put a stop to such schemes.

The issue having thus been made up, Jackson's supporters in Congress determined to fight the charter at every point and to bring the Bank into odium as much as possible.* Benton organized the movement in the House. He incited Clayton of Georgia to demand an investigation of the Bank, and furnished him with seven important and fifteen minor charges and specifications on which to base that demand. Clayton presented them and moved for the investigation February 23d. The Committee reported April 30th. This is the great investigation of the Bank in 1832. There were three reports. The one which was called the majority report was signed by R. M. Johnson, out of good nature. He rose in his place in Congress and said that he had not looked at a document at Philadelphia. This report recommended that the Bank should not be rechartered until the debt was all paid and the revenue adjusted. The minority reported that the Bank ought to be rechartered; that it was sound and useful. John Quincy Adams made a third report, in which he discussed with great discrimination all the points raised in the attack on the Bank. It is to his report that we are indebted for a knowledge of the correspondence of 1829 between Biddle and Ingham, and of the controversy over the Portsmouth branch.

The charges against the Bank and the truth about them, so far as we can discover it, were as follows:

1.—Usury. The bank sold Bank of Kentucky notes to certain persons on long credit, and afterwards granted an allowance for depreciation. In one case these contracts got into court, but the decision went off on technicalities which were claimed to amount to a confession by the Bank that it had made an unlawful contract.† The Bank had also charged discount and exchange for domestic bills when these two together amounted to more than six per cent., the rate to which it was restrained by its charter. This charge was no doubt true. All banks employed these means more or less to evade the usury law.

2.—Branch drafts issued as currency. The amount of these outstanding was $7.4 millions. The majority of the Committee doubted the lawfulness of the branch drafts, but said nothing about the danger from them as instruments of credit. Adams said that they were useful but likely to do mischief. Their operation will appear sufficiently in the course of this history. When Biddle was asked how the branch draft arrangement differed from an obligation of a Philadelphia bank to redeem all the notes of all the banks of Pennsylvania, he answered that the Bank of the United States *controlled* all the branches which issued drafts on it. That was indeed the assumption, but it was by no means true in fact, as the experience of the previous winter had taught him.

* 1 Benton, 236.

† Bank of the United States *vs.* Owens; 2 Peters, 527.

3.—Sales of coin, especially American coin. The Bank had bought and sold foreign coin by weight, and had sold $84,734.44 of American gold coin. The majority held that the foreign coins were not bullion because Congress had fixed their value by law. Adams easily controverted this. All gold coins at that time, American included, were a commodity, not money.

4.—Sales of public stocks. The Bank was forbidden by its charter to sell public stocks. In 1824, upon a refunding of the public debt, the Bank subscribed for a new issue. It had special permission by act of Congress to sell them. Nevertheless the majority disapproved of the sale.

5.—Gifts to roads, canals, etc. The Bank had made two subscriptions of $1,500 each to the stock of turnpike companies. The other cases were all petty gifts to fire companies, etc. The majority argued that since the administration had pronounced against internal improvements, the Bank ought not to have assisted any such works. Adams said that the administration had opposed internal improvements on the ground that they were unconstitutional when undertaken by the federal government; but he asked what argument that furnished against such works when undertaken by anybody else. The petty gifts were such as it was thought for the interest of the Bank to make, as *douceurs*, etc. As it was an expenditure of the stockholders' money, it seemed to belong to them alone to complain of it.

6.—Building houses to rent or sell. The Bank had been obliged in some cases to take real estate for debts. When it could not sell, it had in a few cases improved. The amount was trivial and the cases such as involved no intentional violation of the charter.

These points were the alleged violations of the charter. The charge of *non-user* in failing to issue notes in the South and West for seven years Biddle met with a point blank denial. Adams pointed out that these charges would only afford ground for a *scire facias* to go before the jury on the facts.

The charges of mismanagement and the truth about them, so far as we can ascertain, were as follows:

1.—Subsidizing the press. Webb and Noah of the "Courier and Inquirer" (administration organ until April, 1831, when it went into opposition on the Bank question) were borrowers from the Bank. Noah got a loan from it through Silas Burrows, with which to buy half the paper. When two New York banks refused discounts to Webb and Noah, they got long and large loans from the United States Bank. If these transactions had been openly avowed, they would have had no importance, but the attempt was made to cover them over by excuses and explanations which produced a bad effect. Gales and Seaton of the "National Intelligencer" (independent opposition), Duff Green of the "Telegraph" (Calhoun's organ and therefore administration, until the spring of 1831) and Thomas Ritchie of the "Richmond Inquirer" (administration) were on the books of the Bank as borrowers. The change of party by the "Courier and Inquirer" was regarded as very significant. Adams said that there was no law against subsidizing

the press, and that the phrase meant nothing. If State banks could punish those who favored the United States Bank, why should not the United States Bank help them? Should editors be allowed no bank accommodation? If the Bank discounted a note for an administration editor, it was said to subsidize him. If for an opposition editor, it was said to bribe him.

2.—Favoritism to Thomas Biddle, second cousin of the president of the Bank, and its broker. N. Biddle admitted that the Bank had allowed a usage adopted by other banks of allowing cash in the drawer to be loaned out to particular persons and replaced by memorandum checks which were passed as cash for a few days. He said that the practice had been discontinued. Reuben M. Whitney made a very circumstantial charge that T. Biddle had been allowed to do this and that he had paid no interest for the funds of the Bank of which he thus got the use. The loans to him were very large. October 15, 1830, he had $1,131,672 at five per cent. N. Biddle proved that he was in Washington at a time when Whitney's statement implied that he was in Philadelphia. Adams said that Whitney lied. It was certainly true, and was admitted, that T. Biddle had had enormous confidential transactions with the Bank, but Whitney was placed in respect to all the important part of his evidence in the position of a convicted calumniator. We shall hear of him again below. In 1837 he published an address to the American people, in which he reiterated all his charges against Biddle.*

3.—Exporting specie, and drawing specie from the South and West. From 1820 to 1832, $22.5 millions were drawn from the South and West to New York. This was charged to the Bank. Silver was, however, regularly imported from Mexico to New Orleans, whence it passed up the river to the North and East, and was exported from there to China. The paper issues in the Mississippi Valley prevented it from staying there. So far as the branch drafts after 1827 helped to produce this result, the Bank had some share in it, but, as there were then very few banks of issue in the Valley,† a greater amount of specie was probably retained at that time than ever before. The Bank was also charged with exporting specie as a result of its exchange operations. It sold drafts on London for use in China, payable six months after sight. They were sold for the note of the buyer at one year, so that the goods could be imported and sold to meet the draft. In this way they produced an inflation of credit, but the charge of causing an export of specie was only an expression of ignorant popular prejudice.

4.—The improper increase of branches. No doubt there were too many. Cheves in his time thought some of them disadvantageous to the Bank, but it had been importuned to establish them; there was complaint if a branch was lacking where the government or influential individuals wanted one, and there would have been a great outcry if a proposition had been made to abolish one. How then could their excessive number be made a charge against the Bank?

* 52 Niles, 106.

† See page 166.

5.—Expansion of the circulation by $1.3 millions between September 1, 1831, and April 1, 1832, although the discounts had been reduced during the winter. The Bank was struggling already with the branch drafts, and this struggle produced the facts which were alleged. The majority found that the bank had only $9,640,000 in cash and cash securities to meet $42.6 millions in cash liabilities. Very few banks of the period could have made so good a showing.

6.—Failure of the Bank to serve the nation. The majority argued that as the duties were paid at New York and Philadelphia, and as drafts on those cities were always at a premium, the Bank gained by transferring these funds inland for the government. The minority ridiculed this as an annihilation of space, a means of making a thing worth more the further it was from where it was wanted.

7.—Mismanagement of the public deposits. The majority declare that the Bank ought to use its capital as a permanent fund and loan the public deposits on time, so that they would be repaid near the time when they would be required by government for the debt payment. How to manage the government deposits was already becoming a question of the first importance to the Bank and the public, but if the Bank had done what was here proposed, it would have carried to a maximum the disturbances in the money market which were actually produced by the semi-annual payments on the debt. Biddle's fashion of banking, consisting in adroit tactics, adjustments, and offsets, won its only important triumphs in smoothing over the effects on the money market of the public debt payments.*

8.—Postponement of the payment of the three per cents. These bonds were issued in 1792 for the accrued interest on the revolutionary debt, and were to be paid at 100. The Secretary informed the Bank, March 24th, just before the Bank Committee was raised, that he should pay half the three per cents in July. Biddle hastened to Washington to secure a postponement, not, as he affirmed, for the sake of the Bank, but for three other reasons: first, nine million dollars duty bonds would be payable July 1, so that the merchants would be put to inconvenience if the debt payment fell at that time; second, a visitation of cholera was to be feared, which would derange industry, and the payment of the debt, with the recall of so much capital loaned to merchants, would add to the distress; third, a large amount of specie would go out of the country if these bonds were paid. This last argument the Committee criticised correctly, showing that no export of specie worth noticing would be occasioned. The most probable result would be that the capital would be re-invested in American securities. Louisiana was then contracting with the Barings a loan of seven million [illegible]. Nobody understood this better than Biddle. The reader is often surprised that Biddle should have dared to put out his plausible "explan-

* See page 190.

ations." They were always apparently reckoned for the uninitiated public alone. It seems that his pen ought to have been arrested by the thought of this and that competent banker and financier who might also read the publication, see through it, and lower Biddle's credit on account of it. We have found no cases in which such effects were produced, but on this occasion the headstrong old man at Washington saw that Biddle's reasons were only pretexts. He made up his mind that the truth which they covered was that the Bank was in great distress. He never altered that conviction afterwards, and his opinion was fateful for the Bank.

The friends of the Bank said that the explanations given under this head were good and sufficient: its enemies said that they were only specious pretexts; that the Bank was so weak as to need government support, the reason being that its receipts were in branch drafts while the payments on the debt must be made in current money. The Secretary agreed to defer payment of five million dollars of the three per cents, until October 1st, the Bank agreeing to pay the interest during the extension.

9.—Incomplete number of directors. Biddle was both government director and elected director, so that there were only twenty-four in all. This was because the appointment of government directors was often delayed in the Senate, or because the government director might be reappointed indefinitely while the others rotated. The stockholders elected him also, in order that he might always be eligible to the Presidency.*

10.—Large expenditures for printing; $6,700 in 1830, $9,100 in 1831. From 1829, the date of Jackson's first attack, the Bank spent money on pamphlets and newspapers to influence public opinion in its favor.

11.—Large contingent expenditures. There was a contingent fund, the footings of which in 1832 were six million dollars, to sink the losses of the first few years, the bonus, premiums on public stocks bought, banking house, etc., etc. The suggestion was that this was a convenient place in which to hide corrupt expenditures, and that the fund was so large as to raise a suspicion that such were included in it.

12.—Loans to members of Congress in advance of appropriations. Adams objected to this as an evil practice. He said afterwards that the investigation into this point was dropped because it was found that a large number of Congressmen of both parties had had loans.

13.—Refusal to give a list of stockholders resident in Connecticut to the authorities of that State, so that it might collect taxes from them on their stock.

14.—Usurpation of the control of the Bank by the Exchange Committee of the Board of Directors to the exclusion of the other directors. This charge was denied.

In all this tedious catalogue of charges we find nothing but frivolous

* Biddle was a government director in 1819, 1820, and 1821. In 1822 he was not a director; from 1823 to 1829 he was government director and president; in 1829 he was also elected stockholders' director, and held the double qualification in 1830, 1831, and 1832. After that he was not government director.

complaint and ignorant criticism successfully refuted, except when we touch the branch drafts. If we sum up all the points made by the majority of the Committee, they appear to maintain that the Bank ought to lend the public deposits liberally, and draw them in promptly, when needed, in order to pay the public debt, yet refuse no accommodation (especially to any one who was embarrassed), not sell its public stocks, not increase its circulation, not draw in its loans, not part with its specie, not draw on the debtor branches in the West, not press the debtor local banks, and not contract any temporary loan. The student of the evidence and reports of 1832, *if he believes the Bank's statements in the evidence*, will say that it was triumphantly vindicated. Such was the verdict of the reading and thinking public of the day, almost without exception, if persons with a political bias are left out of account. The verdict of the investing public was unanimous and enthusiastic. If this was all that malevolence, armed with the most powerful means of attack, could bring out to the injury of the Bank, it was exactly the investment which they were all seeking. They fixed their confidence on it with a tenacity which in the end became one of the most notable facts in the history of credit; for neither incidental evidence, which should have awakened their alarm, nor positive events, which should have given them warning, availed to do so.

We are forced to distrust the apparent result of the investigation of 1832, because of the light which is thrown back upon it by the history of the last years of the Bank. The very things which it was charged with doing in 1832, and of which it seemed to be acquitted, were the things which it did do, between 1836 and 1840, and which produced its ruin. These were the things mentioned under the second charge, involving Whitney's veracity, and the fourteenth charge, which the bank denied. Was it not guilty on these points in 1832, and did it not successfully conceal the facts?

Furthermore we know that in the matter of the three per cents Biddle was guilty of a plausible perversion of the truth. He wanted to defer the payment for the sake of the Bank, and for no other reason, and he had recourse to his masterly skill in decking out plausible pretexts in fine rhetoric, in order to make it appear that the Bank was acting only from benevolence to the merchants and loyalty to the government. The position in which the Bank found itself was a result of the working of the branch drafts. Their effect was just beginning to tell seriously, and it was cumulative in a high ratio.

We have already seen that there was a great movement of free capital in the form of specie to this country in 1830,* and that in that and the following year the United States paid its stock note in the capital of the Bank. Capital was easy to borrow until October, when a certain stringency set in. The branch drafts were transferring the capital of the Bank to the western branches, and locking it up there in accommodation paper indefinitely

* See page 181.

extended by drawing and re-drawing. Curtailments were ordered in the Mississippi Valley October 7, 1831. They were interpreted by Benton as arbitrary inflictions for political effect. All through the winter, Biddle was writing to the southern and western branches to contract their loans and pay to New York and Philadelphia, so as to strengthen the Bank for a payment on the public debt which was to be made in April. He could not succeed in making the western branches pay, and was therefore forced to impose a curtailment on the eastern branches. The following table shows this relation of things:

	Total due the Bank.	Due the Bank in the Miss. Valley.
January, 1829		$11.0 millions
December 31, 1829	$40.2 millions	13.3 "
1830	42.4 "	23.2 "
1831	63.0 "	31.2 "
May, 1832	70.4 "	37.5 "

In such a state of things it was impossible for Biddle to see with equanimity a debt which bore only three per cent. interest paid off at one hundred when the market rate was seven or eight per cent. Even before he received notice that the three per cents were to be paid, he tried to negotiate with Ludlow, the representative of a large number of English holders of the three per cents for the purchase of the same. Ludlow had not power to sell. Having obtained a postponement until October, under the conditions above mentioned, the Bank sent Gen. Cadwallader to England to negotiate a postponement for a year. The bondholders were to take the Bank as their debtor instead of the United States. The Barings negotiated this extension with such of the bondholders as were willing, but the administration raised loud objection to an arrangement by which the securities of the United States would remain outstanding after they had been paid.

On the 11th of October a New York newspaper published an account of the arrangement which the Bank had made with the Barings in regard to the three per cents, which was to have been kept secret. The Barings had bought $1,798,597, and had extended $2,376,481. October 15th Biddle repudiated the contract, because under it the Bank would become a purchaser of public stocks. He proposed to credit the extended stock to its holders on the books of the Bank, and to pay for that which the Barings had bought when government should redeem it, or to hold the sum to the credit of the Barings at four per cent.

In fact the sinking fund was not made as good on the first of October as it would have been if the three per cents had been paid on July 1st, although the Bank had promised that it should be made so, as one of the stipulations when they were extended.

These matters and their complications were what weakened the Bank in its defense against its enemies, and gave them the opening for further attacks upon it. They also entailed one difficulty upon another in the next years.

In a letter intended as an apology for the Bank and a reply to the Committee of 1832, Biddle wrote, "Undoubtedly if the Bank had chosen to adopt such a course, it would have been easy, by an immediate diminution of its loans, to place itself out of the reach of all inconvenience; but it would at the same time have inflicted very deep wounds on the community, and seriously endangered the revenue of government. These exertions of mere power have no attraction, and it was deemed a far wiser policy to deal with the utmost gentleness to the commercial community; to avoid all shocks; to abstain from countenancing all exaggerations and alarm; but to stand quietly by and assist, if necessary, the operations of nature, and the laws of trade, which can always correct their own transient excesses. Accordingly the whole policy of the Bank, for the last six months, has been exclusively protective and conservative, calculated to mitigate suffering and yet avert danger."*

The facts above narrated in regard to the attempted curtailments, etc., also account for the heats and chills of the money market, which the anti-Bank men interpreted either as attempts of the Bank to make its power felt and dreaded, or to curry favor. No such explanations are called for. We have already seen ample evidence that such recurrent heats and chills were incident to the "credit system." The momentum of the movements which had been started in the affairs of the Bank since 1823 fully suffice to account for all the phenomena that are presented. A candid student of the history of the Bank cannot say that it was above panic-mongering or popularity-hunting, but it was quite fully occupied, in 1831 and 1832, in mitigating its own sufferings and averting its own dangers, and had no freedom to do anything for effect.

Gallatin says† that the Bank of the United States ceased to regulate the currency in 1832 and 1833, when it expanded its discounts and stock investments to 185 per cent. of its capital, while sound city banks did not carry their profit-bringing investments beyond 160 per cent. of their capital. It was, he argues, only by keeping this proportion lower than that of the city banks that the Bank of the United States could keep them debtors, and so exert its regulating power. From this point of time also dates another very important fact, namely, the complete predominance of Biddle's personal authority in the Bank. He was flattered and caressed, was encouraged to consider himself the prince of financiers, was allowed almost free control of the Bank, and his authority was accepted as decisive in many of the great financial enterprises allied with it.

During the spring and summer of 1832, he took quarters at the city of Washington, from which he directed the congressional campaign on behalf of the recharter, which was a part of the presidential campaign which was then agitating the whole country. He and Jackson were personally pitted against each other. If Biddle had succeeded in defeating Jackson, what

* Compare the extract on page 188, where he justifies by equally high sounding argument a policy exactly opposite.
† 3 Writings, 394. (1841.)

would he himself have become? As it was, he was talked of for President of the United States.* He was not absolutely sanguine of victory, and he must have felt what a tremendous stake he had risked, for he put a letter in Livingston's hands saying that he would accept any charter to which Jackson would consent.† Jackson never fought for compromises, and nothing was heard of this letter. Jackson drew up a queer plan of a bank which he thought constitutional and suitable, but it remained in his drawer.‡ The anti-Bank men affirmed that Biddle was corrupting Congress, but no positive or serious assertion of this kind ever was made.

The charter passed the Senate June 11, twenty-eight to twenty. It had a few new features which were obviously suggested by the experience of the past. The renewal was for fifteen years. The directors might appoint officers to sign notes for less than a hundred dollars; no notes or drafts for less than $50 might be issued which were not payable at the bank where issued, and the Bank must receive from other banks at any branch the notes issued at any branch; it was to pay $200,000 a year to the United States for the benefits of the charter; Congress might at any time forbid it to issue notes of a less denomination than $20; a list of stockholders was to be reported to the Secretary of the Treasury annually, and a list of the stockholders in any State was to be furnished to the Treasurer of that State upon his request. It was expected that the Bank would be forbidden to issue notes under $20 in order to leave the small note circulation to the local banks.

In the House no debate was allowed. Nathan Appleton complained of this because he wanted to propose an amendment; but he says that at that time every one took Biddle's *ipse dixit*, and that politics forced the bill through just as it was. "My faith in Mr. Biddle," says Appleton, "had at that time been materially shaken."§ The charter passed the House July 3, one hundred and seven to eighty five, and was sent to the President, July 4. The Senate voted to adjourn July 16. It was a clever device of theirs to force Jackson to sign or veto by giving him more than ten days. They wanted to force him to a direct issue. Niles says that a week before the bill passed the best informed were "as six to half a dozen" whether the bill if passed would be vetoed; but that for the two or three days before the bill was sent up a veto was confidently expected.‖ Appleton quotes Clay as having said: "Should Jackson veto it, I will veto him." History does not record that this threat ever was fulfilled.

The veto was sent in July 10. The reasons given for it were: 1.—the Bank would have a monopoly for which the bonus was no equivalent; 2.—one-fifth of the stockholders were foreigners; 3.—banks were to be allowed to pay the Bank of the United States in branch drafts, which individuals

* Ingersoll, Second War, 268.
† Ingersoll, 268. Livingston was on the side of the Bank (Hunt's Livingston, 353.)
‡ Ingersoll, 283.
§ 5 Proceedings of the Mass. Hist. Soc., 279.
‖ 42 Niles, 337.

could not do; 4.—the States were allowed to tax the stock of the Bank owned by their citizens, which would cause the stock to go out of the country; 5.—the few stockholders here would then control it; 6.—the charter was unconstitutional; 7.—the business of the Bank would be exempt from taxation; 8.—there were strong suspicions of mismanagement in the Bank; 9.—the President could have given a better plan; 10.—the bank would increase the distinction between rich and poor. Especial stress was laid upon the second, fourth, and tenth, with an appeal to popular prejudice against foreigners and the drain of specie. The operation of the Bank was also represented as a constant oppression of the people of the West by the people of the East and of Europe. This is all an echo of the arguments and notions of the Kentucky relief contest.

The bill was put to vote in the Senate July 13th, but failed of two-thirds (22 to 19). If the Bank was to continue to exist it was necessary to defeat Jackson's re-election. The local bank interest, however, had now awakened to the great gain it would make if the Bank of the United States should be overthrown. The safety fund banks in New York were bound into a solid phalanx by their system, and they constituted a great political power. The chief crime alleged against the Bank of the United States was meddling with politics. It denied it, and defended itself with such success as to leave the matter at most very doubtful. There was no doubt whatever that the safety fund banks of New York were an active political power under Van Buren's control. They went into this election animated by the hope of a share in the deposits.* The great Bank also distributed pamphlets and subsidized newspapers in the campaign, fighting for its existence. The Jackson men always denounced this action of the Bank as corrupt and as a proof of the truth of the charges that it had done so before. They unquestionably measured by two standards, one for themselves and their allies and the other for the Bank.

Jackson's success in the election meant that the fate of the Bank was sealed. Its charter would expire one year before the term for which he had been elected, but he and those followers who had been the chief agents in the Bank war were by no means disposed to allow it to run peacefully to the allotted term of its existence. They wanted to crush it; to win a brilliant and noisy victory over it; to punish it for its audacity in resisting the will of the popular hero; and to vindicate the positions which they had adopted in respect to it. The message of 1832 was temperate in tone but very severe against the Bank. As above stated, the eagerness of the Bank to get possession of the three per cents, had established a conviction in Jackson's own mind that it was weak and unsound, and with his characteristic disposition to exaggerate any conviction which he had once adopted, he declared that it was bankrupt. "An inquiry into the transactions of the institution, embracing the branches as well as the principal Bank, seems

* See Collier's Speech in the House, March 13, 1832, and 8 Adams's Diary, 493.

called for by the credit which is given throughout the country to many serious charges impeaching its character, and which, if true, may justly excite the apprehension that it is no longer a safe depository of the money of the people."

Here was a new and startling suggestion, different from anything which had gone before. The corporation had been arraigned for violating its charter. The financial institution was now arraigned as to its financial integrity. This was the second stage of the Bank war. Behind both of these, predominating over them, but never brought to trial, was the arraignment of the plutocratic engine for hostility to democracy.

At the present stage, however, the arraignment was positive, and if there were grounds for it, it was proper to make it. It is only a pity, if the administration had means of knowing how bad the Bank was, that it did not also see how bad the local banks were, and how much more mischief they were capable of doing, with the same opportunities, than the big Bank had done.

This charge by the President produced considerable alarm for a time and runs on the branches occurred at some places.* That effect speedily passed away, however, and what Jackson had said was regarded, by all but his strongest adherents, as an exaggeration of malignant animosity.

An agent, Henry Toland, was appointed to investigate the Bank on behalf of the Treasury, with especial reference to the point whether it was financially sound enough to make the public deposits safe. He reported that it was.

The Committee on Ways and Means, in the winter of 1832-3 also investigated the Bank with respect to the points raised in the message. February 13, 1833, Polk reported a bill from this Committee to sell the stock owned by the nation in the Bank. It was rejected, 102 to 91. The report of this Committee on its investigations is another of the great documents about the Bank.† The majority (Verplank's Report) declared that the Bank was sound and that the deposits were safe. On January 1, 1833, the assets were $80.8 millions, the liabilities $37.8 millions, leaving $43 millions to pay $35 millions of capital. The circulation was $17.5 millions, specie $9.0 millions. The State banks were estimated to have $68 millions circulation, and $10 millions or $11 millions specie. The minority (Polk's Report) doubted if the assets were all good. They said that they had not been able to find out clearly what was the final arrangement made by the Bank with respect to the three per cents, but it appeared that the certificate obligations of the United States had been surrendered, and that the Bank had, by means of the transaction, obtained a loan in Europe. The majority said that the Bank had receded from the project, and that there was, therefore, nothing more to be said about it. In a supplementary report, the minority showed that they had succeeded in probing deeper into the actual condition of the Bank,

* 43 Niles, 315.

† 22 Congress, 2 Session, Reports, No. 121.

especially with respect to the western debt. The facts revealed by their investigation were as follows:

As early as October 4, 1832, Biddle informed the directors that the Bank was strong enough to relax the orders given to the western branches a year before, to contract their loans and remit eastward. He then supposed that the arrangement with the Barings about the three per cents had been concluded, so that he had obtained a new resource on that side and need not further insist upon the curtailment. He succeeded in meeting all the inquiries of the Committee on Ways and Means in such a way as to satisfy the majority that the debt in the Mississippi Valley was perfectly sound, and that there was no re-drawing going on there. Polk's supplementary report, however, contains conclusive evidence that the western branches were in a very critical condition, that there had been drawing and re-drawing between the branches, and that Biddle knew it. September 11, 1832, the cashier of the branch at Lexington, Ky., wrote that he was enduring a run. Two hundred and seventy thousand dollars was sent to him from Philadelphia and the branches nearest to him. A letter from Biddle to the president of the Nashville branch, November 20th, shows plainly that he knew that re-drawing was going on. In a letter from the president of the Nashville branch November 22d, it is said: "We will not be able to get the debts due this office paid. Indeed if any, it will be a small part. The means are not in the country." The letter of the same officer of November 24th reveals the operation distinctly. "The parent bank and the offices at New York, Baltimore, Washington, Richmond, Pittsburgh, Cincinnati, Louisville, and Lexington have been and still continue the practice of discounting bills and notes made payable at this office and forwarding them for collection. This has been done this season to, I would say, three times the amount of any previous year, and to add to our difficulties last season we had a very short crop of cotton, so that our own drafts predicated on the crop and payable at New Orleans could not be paid out of the crop, in consequence of which drafts to a very large amount have been drawn by the commission merchants of New Orleans on their funds here and made payable at this office. These drafts cannot be met when due at this office by the payment of cash on account of its scarcity, and no other means could be resorted to but drafts again on New Orleans which our directors thought right to purchase." From this it is very plain that the drafts in question were not created by shipments of produce down to New Orleans, but consisted very largely of accommodation paper. Again, on the 26th of November, the same officer states that he had, within a year, collected drafts for a million dollars, for the Bank and branches, "which with small exceptions have been paid through our bill operations." The majority of the Committee of 1833 had interpreted the fluctuations in the amount of bills at Nashville as proof that when the crops came in the debts were cancelled. The minority showed that these fluctuations were due to the presence of the "racers" at one or the other end of the course. It is quite beyond question

that a mass of accommodation bills were chasing each other from branch to branch in the years 1832 and 1833, and that they formed a mass of debt which the Bank could not, for the time, control.

On the same day on which Polk's supplementary report was presented, and without giving any consideration to it, the House adopted a resolution, 109 to 46, that the deposits might safely be continued in the Bank. The Bank question was now a party question, and men voted on it according to party, not according to evidence. Whatever force might be attributed to any of the facts brought out by Polk in the minority report, it does not appear that anybody in Congress really thought that the Bank was insolvent and the deposits in danger. Polk himself did not propose to withdraw the deposits. He wanted to avoid any positive action for the time being, and have a still more searching investigation. "Nothing short of a personal, impartial, and thorough examination of the books and papers of the principal Bank and many of its branches can develop its policy and management, the security of its debt, and the soundness of its condition." McDuffy objected that if Congress took no action before it adjourned, Jackson would remove the deposits on the principle that silence gives consent.*

Although the House of Representatives had thus answered the exhortation of the President to find out whether the deposits were safe by categorically declaring that they were, the wish and purpose to remove them was not checked in the least. On the contrary a new line of attack was opened in April by obtaining a report from the government directors of the Bank. Three of them complained that they were excluded from a knowledge of what was being done. They declared that the Exchange Committee had taken control of the Bank, and they reported especially large loans to Gales and Seaton. In August, four of them joined in a second report in which further stress was laid on the large expenditures for printing, that is, for what the anti-Bank men construed as corrupt efforts to win political influence. They considered the inference direct that the public money, which was, perhaps, what was being used for this purpose, should be removed from the Bank. Everything which touches upon the history of the Exchange Committee demands our attention on account of the great part which that organization played in the final catastrophe of the Bank. The government directors, in the former of the above reports, say that the directors had condemned this arrangement, and that, by votes of October 31, 1823, and February 20, 1830, they had forbidden the branches to make use of it.

The question naturally presents itself: who were the prime movers in the desperate and useless enterprise of the removal? William B. Lewis† said that he did not know who first proposed the removal of the deposits, but that it began to be talked about in the inner administration circles soon after Jackson's second election. In the cabinet, McLane and Cass were so earnestly opposed to the project that it was feared that they would resign.

* 44 Niles, 108.

† 3 Parton's Jackson, 503.

McLane sent for Kendall to know why it was desired to execute such a project. He had told Adams a year before that the Treasury could not go on without the Bank.* Kendall endeavored to persuade McLane to execute the removal. Cass finally said that he did not understand the question, and withdrew from any share in it. Woodbury was neutral. Barry assented to the proceeding but had no active share in it. Taney warmly favored it and became Jackson's most trusted adviser at this time. Van Buren was at first strongly opposed, but yielded to Kendall's persuasion. He wavered afterward but Kendall succeeded in keeping him to it. Benton approved of the proceeding but was not active in bringing it about. Blair's chief point was that the Bank would corrupt Congress.† Lewis gives a report of a conversation with Jackson in which he tried to persuade Jackson to desist from the project. The latter's points were: "I have no confidence in Congress." "If the Bank is permitted to have the public money, there is no power that can prevent it from obtaining a charter. It will have it if it has to buy up all Congress; and the public funds would enable it to do so." "If we leave the means of corruption in its hands, the presidential veto will avail nothing." The statements in Kendall's Autobiography are in perfect accord with these. They seem to indicate that the anti-Bank men saw one chance yet remaining to the Bank, namely, to get a two-thirds majority in both Houses of Congress within the next three years, using corrupt means for this purpose, and so to pass a charter over the veto. One must have Jackson's relentless determination to pursue an enemy to the point of extermination before one could spend great energy to render such a chance impossible.

It appears therefore that the removal of the deposits was due first of all to Jackson himself. He "took the responsibility," and history must leave it with him. It is not at all impossible that he originated the purpose to make the removal. The moving spirits, who had first animated him with a hatred to the Bank, and who now were his ministers, although it is very possible that his zeal outstripped their impulses, were Blair and Kendall, with Whitney as their tool.‡

As McLane persisted in his refusal to be the agent of removal, he was transferred to the State Department, and William J. Duane, of Pennsylvania, was appointed to the Treasury. Jackson assumed that Duane was a man like his father, the editor of the "Aurora," and he expected to find in him one who would sympathize with all the motives of the removal. Duane was a lawyer. He had never been a politician or office-holder, and his temper and opinions were quite different from those of his father. On the first day of his official life, June 1, Whitney called on him and made known to him the project to remove the deposits from the Bank and to use local banks as depositories and fiscal agents. Instead of accepting the role for which he had been selected, Duane objected and refused. Jackson sent to him from Boston, where he then was, a long argument to try to persuade him to con-

* 8 Adams's Diary, 457. † 3 Parton's Jackson, 405.

‡ Kendall's Autobiography, 375; 10 Adams's Diary, 115.

cur in the project. Upon Jackson's return, in July, he urged Duane to consent, but in vain, and an arrangement appears to have been made with Taney to take the Treasury if Duane should still refuse.

In August, Duane wrote, "It is true that there is an irresponsible cabal that has more power than the people are aware of. * * * What I object to is that there is an undercurrent, a sly, whispering, slandering system pursued."* October 23, he wrote: "I had not been twenty-four hours in office when I felt, as I wrote my father, my vessel on the breakers. I found that the President was in the hands of men whom I would not trust, personally or politically. A contest at once began, the object of which was to drive me out of office, as the "Globe" called me 'a refractory subordinate.'"† In his history of the matter, written five years later, he says: "I had heard rumors of the existence of an influence at Washington unknown to the Constitution and to the country; and the conviction that they were well founded now became irresistible. I knew that four of the six members of the last cabinet, and that four of the six members of the present cabinet, opposed a removal of the deposits, and yet their exertions were nullified by individuals whose intercourse with the President was clandestine. During his absence [in New England] several of those individuals called on me and made many of the identical observations in the identical language used by himself. They represented Congress as corruptible, and the new members as in need of special guidance. * * * In short, I felt satisfied from all that I saw and heard that factious and selfish views alone guided those who had influence with the Executive, and that the true welfare and honor of the country constituted no part of their objects."

In July occurred an incident which increased very much the animosity which was felt against the Bank. The line of action which it adopted was blamed by many of its friends.

July 4, 1831, a treaty was made with France by which she agreed to pay certain claims for spoliations during the Napoleonic wars. According to the treaty, the first installment was due February 2, 1833, but on account of the unpopularity of the treaty in France no appropriation had been made to pay it. The Secretary of the Treasury drew a draft for it on the 7th of February, as for a commercial debt, which draft he sold to the Bank for $961,240.30. Congress passed an act, March 2, ordering the Secretary to loan this sum at interest. The draft when presented at the French Treasury could not be paid. It was protested and was taken up by Hottinguer for the Bank as endorser. The Bank had put the money to the credit of the Treasury, and it claimed to prove, by quoting the account, that the purchase money had actually been drawn. Hence it declared that it was out of funds for twice the amount of the bill.‡ It demanded 15 per cent. damages under an old law of Maryland which was the law of the District of Columbia. The Treasury repaid the purchase money and offered to pay the actual damage

* Duane, 130. † 45 Niles, 272.

‡ Report of a Committee of Directors of the Bank on a Paper read in the Cabinet.

incurred, but no more. July 8, 1834, Biddle informed the Secretary of the Treasury that the sum of $170,041 would be retained out of a three and one-half per cent. dividend, payable July 17, on the stock owned by the United States. March 2, 1838, the United States brought suit against the Bank in the federal Circuit Court of Pennsylvania to recover the sum so withheld. It got judgment for $251,243.54. The Bank appealed to the Supreme Court, which, in 1844, reversed the judgment, finding that the Bank was the true holder of the bill and entitled to damages. On a new trial the Circuit Court gave judgment for the Bank. The United States then appealed, on the ground that a bill drawn by a government on a government was not subject to the law merchant. The Supreme Court sustained this view in 1847, and again reversed the decision of the Circuit Court.* No further action was taken. We must accept the decision as proving that the Bank was unwarranted in its action in paying itself.

In July rumors became current that the President intended to remove the deposits. On the 17th, Jacob Barker insured the non-removal until the meeting of Congress for 25 per cent. premium.† In August Kendall was appointed by the Secretary of the Treasury as agent to negotiate with the local banks of the Middle and Eastern States, so as to find out whether they would undertake the fiscal operations of the government. His first project seems to have been to group the selected deposit banks into a combined responsibility analogous to the New York safety fund system. He got no encouragement for this; but he obtained a number of favorable replies to more general inquiries as to a willingness to enter into some arrangement.‡ This errand of Kendall of course became known through the newspapers, although it was made as secret and confidential as possible.§ Rives published an article in the "Washington Globe," June 23, 1856, in which he stated that Kendall was so disappointed at the result of his mission that he wrote to Jackson, who was then at the Rip Raps, that the deposits could not be removed. Blair was there with Jackson, and was much influenced by Kendall's report. Jackson, however, maintained against Blair that the Bank was broken. The proof was that Biddle came to Washington to beg that the payment on the United States loan might be deferred. He said that Biddle was proud and brave and never would have humbled himself to this step but under necessity. Kendall, however, denied that he had ever written that the deposits could not be removed.‖ Commenting on the results of Kendall's mission, Duane said: "It was into this chaos that I was asked to plunge the fiscal concerns of the country at a moment when they were conducted by the legitimate agent with the utmost simplicity, safety, and dispatch."

The Bank had warning of what was intended from the public rumors, if in no other way. August 13, strict orders were issued to restrict discounts and to cut off extensions, buying only short bills, especially at the western offices,

* 2 Howard, 711. 5 Howard, 382.
† 44 Niles, 353.
‡ 23 Cong., 1Sess., Sen. Doc., No. 17.
§ 44 Niles, 375.
‖ Hudson's Journalism, 250.

and also to restrict purchases to bills which would throw funds into the Atlantic cities. These orders were repeated and made more stringent October 3. Ninety days was too short a time for the "racers," considering the difficulty of communication. It appears that they had also been reduced by steady pressure during the last twelve months. The cry now was that the great Bank was making the stringency in order to show its power. The threat of removal affected the money market.

The wording of the Bank charter was that the Secretary of the Treasury might remove the deposits, and the laws constituting the Treasury Department give to the Secretary a certain independent authority and responsibility, although this is inconsistent with his position as a subordinate who may be peremptorily removed. Jackson now said to Duane: "I take the responsibility," a phrase which became current in the political slang of the next ten years. On the 18th of September, he read in the meeting of his cabinet a paper prepared by Taney,* in which he argued that the deposits ought to be removed, the grounds being the three per cents, the French bill, the political activity of the Bank, and its unconstitutionality. He would not dictate to the Secretary, but he took all the responsibility of deciding that, after October 1, no more public money should be deposited in the Bank, and that the current drafts should withdraw all money then in it. The "Globe" announced this decision September 20. Duane refused to give the order and refused to resign. He was dismissed September 23. In a letter which he wrote in 1837, he complained that he had been politically outlawed on all sides for having had the courage to do right, but rebelling against party discipline.† Immediately upon his dismissal he published the final correspondence between the President and himself, in which he gave fifteen reasons why the deposits ought not to be removed. One of them was: "I believe that the efforts made in various quarters to hasten the removal of the deposits did not originate with patriots or statesmen, but in schemes to promote factious and selfish purposes." He ascribed it chiefly to vindictiveness. The administration press immediately turned upon Duane with fierce abuse. Taney was transferred to the Treasury Department and gave the order for the removal. He told Kendall that he was not a politician, and that, in taking a political office, he sacrificed his ambition, which was to be a Judge of the Supreme Court.‡

No political act before the civil war created such intense excitement as the removal of the deposits. We may pass over the political aspects of it; but very exaggerated financial importance was attached to it, and for that generation it continued to be the point from which the subsequent vicissitudes of banking and currency were reckoned. No one, however, ever told why this act had such great importance. It produced a panic perhaps because the alarm was not rational.§ The stock of the Bank fell one or two points at New York, but it recovered as soon as the paper read

* Tyler's Taney, 204. † New York "Times," May 13, 1894. ‡ Kendall's Autobiography, 386.
§ 45 Niles, 65.

in the cabinet was published, because the grounds were only the old charges, which, as we have said, the investing public considered to be entirely refuted. We find it suggested that the politicians were short of the stock and were in great trouble because it did not fall.* The Bank replied to the President's paper by a long statement, no doubt written by Biddle, in which he took up *seriatim* the points raised by Jackson.

The average monthly balance in the Bank to the credit of the Treasury, from 1818 to 1833, was $6.7 millions. In 1832 it was $11.3 millions, and in 1833, $8.5 millions. In September of the latter year it was $9.1 millions.† It should, however, be noted that the deposits on the 1st of January, 1833, excluding the credits of public officers, were less than eight hundred thousand dollars, and that the amount in October had been deposited within the preceding nine months, having accumulated gradually. Nothing was drawn from the Bank by the removal. It was not compelled to call any of its loans at the time that step was announced. The amount on the 1st of January, 1834, was nearly $850,000 and it was not reduced to zero until the end of 1835.‡ It is difficult to see how the transaction could have had any great financial effect.

There was, however, another and far more serious ground of anxiety than the undefined panic on account of the removal of the deposits. Those who could remember 1817, and who recalled what they supposed to be the absolute demonstration of that period,§ were alarmed at the prospect that its evils were to be renewed. This alarm was best expressed by Binney: "It is here that we find the pregnant source of the present agony—it is in the clearly avowed design to bring a second time upon this land the curse of an unregulated, uncontrolled State bank paper currency. We are again to see the drama, which, already in the course of the present century, has passed before us and closed in ruin. If the project shall be successful, we are again to see these paper missiles shooting in every direction through the country—a derangement of values—a depreciated circulation—a suspension of specie payments—then a further extension of the same detestable paper, with failures of trade and failures of banks in its train—to arrive at last at the same point from which we departed in 1817."

The removal of the deposits is the date of, and in some sense the cause of, the multiplication of local banks,‖ and the beginning of the series of financial errors and disasters which marked the next ten years.

Kendall reported to the cabinet the result of his negotiations with the banks. One bank was objected to on "political grounds."¶ Twenty-three were selected before the end of the year.

The contract between the Treasury and the deposit banks, in September, 1833, provided that each bank should receive all deposits offered by the Treasury, whether in coin, notes of the Bank of the United States or its branches, notes of any neighboring bank convertible into coin, or notes of

* 45 Niles, 130. † 23 Cong., 1 Sess., 1 Senate, No. 16. ‡ 24 Cong., 2 Sess., 2 Exec., No. 77.
§ See page 69. ‖ See Chap. 13, § 2. ¶ Kendall's Autobiography, 387.

any bank which the deposit bank is for the time being in the habit of receiving. If the deposit exceeds half of the capital of the bank, or for any other reason the Secretary thinks it necessary, the bank is to give collateral security for the deposit. It is to report to the Secretary weekly and submit its books to him or his agent whenever he shall require. It is to transfer the deposits upon the drafts of the Secretary to any other deposit bank without any charge of any kind whatsoever, but it is to have reasonable notice when this transfer will be required. It is also to furnish the Secretary with exchange on London at the current market price, and to guarantee the bills without any charge whatever. The Secretary may discharge the bank from the service of the government whenever the public interest may require.

January 30, 1834, Silas Wright made a statement on the deposit system which was understood to be authoritative. He said that the Executive had resumed the control of the public money, which belonged to him before the national bank was chartered; that the administration would bring forward no law to regulate the deposits, but that the Executive would proceed with the experiment of using State banks. March 18th, Webster proposed a bill to extend the charter of the Bank of the United States for six years, without monopoly, the public money to be deposited in it, it to pay to the Treasury two hundred thousand dollars annually, and none of its notes to be for less than twenty dollars. The Bank men would not agree to support it. April 15, Taney sent to the Committee on Ways and Means a plan for the organization of the deposit bank system; but it was a mere vague outline. December 15, Woodbury sent in a long essay on currency and banking, but no positive scheme or arrangement. It was not until June, 1836, that the deposit system was regulated by law. The administration, however, had some definite ideas about what it ought to require of the deposit banks. Taney, in his communication of April 15, proposed rules by which a broader specie basis could be obtained. Monthly reports were to be required; no deposit bank was to deal in any stocks except those of the United States and of the State in which it was. After March 3, 1836, no bank was to be a depository which issued notes under $5, nor were the notes of any such to be received in payments to the United States. The banks treated these regulations with the same indifference with which they had treated those of the States.

Taney desired that Kendall should be president of the Bank of the Metropolis and organize the system, but he declined. The Bank of the Metropolis was then asked to admit Whitney as agent and correspondent of the deposit banks. The bank refused to do this, and the plan of making that bank the head of the system was given up.* The deposit banks were recommended to employ Whitney as agent and correspondent at Washington for their dealings with the Treasury. He did not escape the charge of abusing the power which this position gave him, and an investigation in 1837 produced evidence very adverse to his character. From the correspond-

* Kendall's Autobiography, 388.

ence between him and the banks which was then published, it is plain that the chief argument which was used to support an application for a share of the deposits or other favor was political; above all, devotion to Jackson and hatred of the Bank of the United States.

Taney assumed that the Bank of the United States would make a spiteful attempt to injure the deposit banks by calling on them to pay balances promptly. He therefore placed some large drafts on the Bank of the United States in the hands of officers of the deposit banks at New York, Philadelphia, and Baltimore, so that they might offset any such malicious demand. Otherwise the drafts were not to be used. The Bank took no steps which afforded even a pretext for using these drafts, but the president of the Union Bank of Maryland cashed one of them for one hundred thousand dollars a few days after he got it, and used the money in stock speculations.* For fear of scandal this act was passed over by the Executive, but it led to an investigation by Congress. Taney was a stockholder in the Union Bank.† The Manhattan Company also used one of these drafts for five hundred thousand dollars. Here, then, at the very outset, experience was made of the reliance which could be placed on the "pet banks" in confidential dealings with them.

Taney claimed the right to give these transfer drafts, by way of arbitration between the banks, by virtue of the precedent set by Crawford. Here we have a full-fledged administrative abuse, the steps of whose growth we have noticed all the way down from its beginning by Alexander Hamilton.‡

By a resolution of the House of Representatives of Pennsylvania, December 20, 1833, the Committee on Ways and Means were directed "to inquire how far the public interests might be promoted by the continuation of the operations of the Bank of the United States under a charter from this Commonwealth, should its present charter not be renewed by the United States." In their report on this resolution the Committee expressed the opinion that the Bank, under a State charter, would speedily run down into a mere State bank, as the Bank of North America had done. They thought that it was essential to a national bank that it should be under the federal courts, which a State bank would not be; that it should be charged with the collection of the revenue, because otherwise it could not regulate the local banks; and that it should have branches. While they did not report against the proposal, they gave the weight of argument against it.

The session of 1833 and 1834 was the most excited that took place before the civil war. Of course the President's message and the report of the Secretary of the Treasury must justify what had been done. The President threw the justification of it chiefly on the report of the government directors of the Bank, which showed, as he said, that the Bank had been turned into an electioneering engine. This referred to the documents which it had distributed

* Kendall's Autobiography, 389; 23 Cong., 1 Sess., 1 Sen. No. 16, p. 339.

† Quincy's Adams, 227. He sold his stock February 18, 1834. 23 Cong., 1 Sess., Sen. Doc. 238.

‡ See pages 33, 35, 102.

in the campaign. The Secretary said that, although he alone had the power to remove the deposits, and Congress could not order it to be done, yet that the Secretary must discharge any duties laid upon him under the supervision of the President. He put the removal which had been accomplished on the ground of public interest. The people had shown in the election that they did not want the Bank rechartered. It was not best to remove the deposits suddenly when the charter should expire. He tried to show from the statistics of the Bank that it had operated inflations and contractions, and he suggested that this had been done for political effect. He reiterated the charges of improper expenditures. "Some of the items accounted for sufficiently show in what manner it was endeavoring to defend its interests. It had entered the field of political warfare, and as a political partisan was endeavoring to defeat the election of those who were opposed to its use. It was striving by means of its money to control the course of the government by driving from power those who were obnoxious to its resentment."

All the debates and proceedings of this session were passionate and violent. The Senate refused, 25 to 20, to confirm the reappointment of the government directors, who were said to have acted as the President's spies. Jackson sent the names in again, with a long message, and they were again rejected, 30 to 11. Taney's appointment as Secretary of the Treasury was rejected. He was then nominated for Judge of the Supreme Court and again rejected. In January, Jackson sent in a message complaining that the Bank still kept the books, papers, and funds belonging to the pension agency, with which it had hitherto been charged. The Senate voted, May 26th, 26 to 17, that the Secretary of War had no authority to remove the pension funds from the Bank.

December 11th, Clay moved a call for a copy of the paper read in the cabinet. Jackson refused it, on the ground that Congress had no business with the paper. Clay introduced resolutions which finally took this shape: "Resolved—First, That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the Constitution and the laws, but in derogation of both. Second, That the reasons assigned by the Secretary for the removal are unsatisfactory and insufficient." January 7th, Benton offered a counter-resolution that Biddle should be called to the bar of the Senate to give the reasons for the recent curtailments of the Bank, and to answer for the use of its funds in electioneering. February 5th, Webster reported from the Committee on Finance, on the subject of the removal and on Clay's resolutions. The second of these was at once adopted, 28 to 18. March 28th, the first resolution was adopted, 26 to 20. April 15th, Jackson replied to the latter resolution with a protest, construing it as an invasion of Executive rights and independence. The Senate refused to receive this protest, 27 to 16, declaring it a breach of privilege. The administration press next directed its attacks against the Senate as an institution. This attack was organized in support of Benton's proposition to expunge the resolution of censure on the

President from the records of the Senate; so that one of the bitterest purely political struggles in the history of the country, before the civil war, grew out of the removal of the deposits. Jackson's supporters won control of the Senate in 1836, and the resolution was expunged, January 16, 1837.

In the House, Polk reported from the Committee on Ways and Means, March 4, 1834, supporting Jackson and Taney in all their positions about the removal. He offered four resolutions, which were passed, April 4th, as follows:—First, That the Bank ought not to be rechartered, 132 to 82; second, that the deposits ought not to be restored, 118 to 103; third, that the State banks ought to be depositories of the public funds, 117 to 105; fourth, that a select committee should be raised on the Bank and the commercial crisis, 171 to 42. The committee last mentioned was appointed, and endowed with inquisitorial power, which J. Q. Adams thought was unjust and un-American. They reported, May 22d, that the Bank had resisted all their attempts to investigate, which was so far true that the Bank had drawn the line beyond which they would not allow the committee to go. The majority proposed that the directors should be arrested and brought to the bar of the House. The minority of the committee justified the Bank in the position which it had taken, and while they were very careful to ascribe only the purest motives to the majority, yet showed strong disapproval of the line of examination which had been attempted; that was, to find evidence to support the charges against the Bank and its officers in the books and in an inquisitorial examination of the officers themselves.

The Senate also undertook another investigation. It instructed the Committee on Finance, June 30th, to investigate all the allegations against the Bank made by Jackson and Taney in justification of the removal. This produced Tyler's report of December 18, 1834, which is very valuable for the history, but was very little heeded at the time. Its conclusions were all favorable to the Bank.* Tyler appended to his report statistical statements of the condition of the Bank, which show what its internal history had been during the last years. It had drawn back from the perilous position into which it was drifting under the western debt, and the operation of the branch drafts, in the spring of 1832, and had improved its whole status down to October, 1833, when it was extremely strong.

We have already noticed the panic which was occasioned by the removal of the deposits and which may properly be so called, if we are correct in the opinion that there was no rational ground for commercial distress in that proceeding. During the winter of 1833-4, there was a stringent money market, and commercial distress due to other causes, which were indeed incidental to, or contingent on, the removal. The State banks were trying to strengthen themselves and to put themselves on the level of the Treasury requirements, in the hope of getting a share of the deposits. It was they

* 23 Cong., 2 Sess., 1 Sen. Doc. No. 17.

who operated a bank contraction during the winter. It was more than a year before the new system began to operate in place of the old. Stocks fell from 20 per cent. to 50 per cent. In February, 1834, sterling exchange was down to 98, par being 108. There was a great fall in prices, and commercial paper rose to two per cent. or three per cent. per month.* A great number of banks failed on account of the shrinkage in securities. In New York, State stocks were loaned to the banks to ward off an apprehended suspension of specie payments. Hammond says that this frustrated the desire of the Bank of the United States to force a suspension.† Nathan Appleton ascribed the commercial crisis to Biddle. "No one can doubt that his contractions in 1834, so distressing to the community, were pushed beyond reasonable measure, for the purpose, by that means, of effecting the renewal of the charter, under the pretense of the necessity of preparing for winding up its concerns, whilst his subsequent expansion had a full share in producing the mad and wild speculations of 1835-6."‡ In another letter, in 1857, Appleton said that, in March, 1834, a committee of New York merchants and bankers told Biddle that, unless the Bank desisted for thirty days from any calls on the other banks, he would be denounced on the Merchants' Exchange for "flagitiously endeavoring to force Congress to grant him a charter." When the thirty days were up he renewed the pressure and kept it up until July, when Congress adjourned. The "pressure was wholly owing to the unprincipled action of Mr. Biddle."§ If this story is correct, it seems that the merchants and bankers unwarrantably intimidated Biddle from collecting debts justly due to the Bank for a period of thirty days.

The anti-Bank men pointed to the statements of the Bank as obvious proof of panic-making and popularity-hunting. In eighteen months from January, 1831, to July, 1832, when it was working for the renewal, its loans increased $23.4 millions; in the next eighteen months they were reduced $21.9 millions, as was said, out of spite and revenge, to show its power; in the next six months they were increased again $19.6 millions.

Benton and others denied that there was any distress, and said that the petitions presented to Congress were gotten up for effect, to frighten Jackson into restoring the deposits. Delegations went to Washington to represent to Jackson the state of the country. He became violent; told the delegations to go to Biddle, that he had all the money; that the Bank was a monster, to which all the trouble was due. In answer to a delegation from Philadelphia, February 11, 1834, Jackson sketched out the bullionist program, which the administration pursued from this time on. Up to this time it had been supposed that Jackson rather leaned to that class of paper money notions represented by the big banks of the States of the Southwest. He now proposed, as an "experiment," to persuade the local banks, by the inducement of the deposits, to come up to a higher and higher standard, until there

* Raguet; Currency and Banking, 196. † 2 Hammond, 440. ‡ Appleton; Currency, 27. (1841.)
§ 12 Banker's Magazine, 410.

should be no bank notes under $20, and a large part of the circulation should consist of coin. For the next ten years there were, therefore, four schools of opinion and four systems of currency contending for the mastery: the national bank system, the local deposit bank system, the bullionist system, and a government inconvertible treasury note system.

For a short time in the summer of 1834, the currency was in a very sound condition. The Bank of the United States was, by the necessity of its position, under strong precautions. The local banks, by their efforts to meet the Treasury requirements, were stronger than ever before. In May it was said that there was more specie in the United States than ever before.* Silver was imported during the fiscal year to the value of $3.7 millions. A statement which pretended to give the ratio of circulating paper to specie in the different States showed that, with the exception of Tennessee, Mississippi, Maine, Connecticut, Massachusetts, and South Carolina, the ratio was under 7 to 1.†

This, however, was a mere transition. As we shall see in the next chapter, the effect of the transfer of the government money to the local banks was that their number was greatly increased and a bank inflation was produced.‡ The state of things which existed in the summer of 1834 passed as mere phenomena of transition.

November 5, 1834, Secretary Woodbury informed the Bank of the United States that the Treasury would not receive branch drafts after January 1, 1835. This led to a spirited correspondence with Biddle in which the latter defended the drafts as good, both in law and in finance.§

In the message of 1834 Jackson recapitulated all the old complaints against the Bank and recommended that its notes should no longer be received by the Treasury, and that the stock owned by the nation should be sold. January 10, 1835, Polk introduced a bill to forbid the receipt of notes of the Bank of the United States at the Treasury, unless the Bank would pay at once the dividend which had been withheld in 1833. Bills were also proposed for regulating the deposits in the deposit banks, but no action was taken on any of these matters, and the session was fruitless as to banking and currency. The Committee on Finance of the Senate was, however, ordered to investigate the specie transactions of the Bank.

In the message of 1835, Jackson referred to the war which, as he said, the Bank had waged on the government for four years as a proof of the evil effects of such an institution. He declared that the Bank belonged to a system of distrust of the popular will, as a regulator of political power, and to a policy which would supplant our federal system by a consolidated government. Thus at the end of the Bank war we meet again with that allegation in regard to the constitution and purpose of the Bank as a plutocratic engine, which Ingham had formulated in his letter to Biddle, October 5, 1829.

* 46 Niles, 188. † 47 Niles, 20. ‡ Chapter XIII., § 2.
§ 23 Cong., 2 Sess., 2 Sen. Doc. No. 13.

CHAPTER XIII.

Measures and Events Antecedent to the Crisis of 1837.

§ 1.—*The United States Bank of Pennsylvania.*

THE Committee of Stockholders to investigate the Bank of the United States, January 4, 1841, said: "The origin of the course of policy which has conducted to the present situation of the affairs of the institution dates beyond the period of the recharter by the State." We shall therefore use the information which that Committee obtained in regard to the internal history of the Bank, so as to present both that and the external history at the same time.

"When it was perceived," the Committee go on to say, "that the charter of the late Bank of the United States would not be renewed or extended by Congress, the president and directors commenced winding up its concerns, and among the first measures taken to that end was to sell or dispose of, as far and as speedily as could be effected, the assets of its several branches. This was generally done to State banks, who gave for them their obligations, payable by installments at distant periods. At the same time the policy was adopted of converting the active debt into loans upon the security of stocks, by which permanent investments might be provided for the capital of the bank during the long period of its anticipated liquidation." On the 6th of March, 1835, "the president submitted to the Board a general view of the situation of the Bank, its means and liabilities, its circulation and deposits, and the probable future demands upon it, showing its ample resources and power of expansion; whereupon" the Committee of Exchange, which was composed of three directors, appointed by the president, were authorized by the Board "to make loans on the security of the stock of this Bank, or other approved security, and if necessary at a lower rate than six, but not less than five per cent. per annum." "This delegation of power to the Exchange Committee was never expressly and formally renewed under the new charter, unless it be considered as included

under a general resolution of the new Board adopting 'the By-Laws, Rules, and Regulations' of the former Bank. By the statement of the condition of the Bank upon the 2d of March, 1835, the whole amount of loans upon Bank stock and other than personal security, was $4,797,936.25, while by that of March 3, 1836, these loans had increased to the sum of $20,446,367.88. Under such circumstances, the active means of the Bank were comparatively small to pay the immediate demand of the State for the bonus, to settle with the government of the United States for its stock, and to meet its circulation of $20,114,227.56, which, contrary to the anticipation, expressed at the period of its recharter, soon began to be rapidly presented for redemption. The Bank was of necessity driven into the market as a borrower, and very soon the first step was taken to obtain loans abroad, by sending the cashier to Europe for that purpose. Two loans were accordingly negotiated by him; one in England of £1 million sterling; and another in France of 12,500,000 francs, on favorable terms."

"To this [foreign indebtedness] has been superadded extensive dealing in stocks, and a continuation of the policy of loaning upon stock securities, though it was evidently proper upon the recharter that such a policy should be at once and entirely abandoned. Such indeed was its avowed purpose, yet one year afterwards, in March, 1837, its loans upon stocks and other than personal security had increased $7,821,541, while the bills discounted on personal security and domestic exchange had suffered a diminution of $0,516,463.78. It seems to have been sufficient to obtain money on loan, to pledge the stock of an 'Incorporated Company,' however remote its operations or uncertain its prospects. Many large loans, originally made on a pledge of stocks, were paid for in the same kind of property, and that too at par, when in many instances they had become depreciated in value. It is very evident to the Committee that several of the officers of the Bank were themselves engaged in large operations in stocks and speculations, of a similar character, with funds obtained of the Bank, and at the same time loans were made to the companies in which they were interested, and to others engaged in the same kind of operations, in amounts greatly disproportionate to the means of the parties, or to their proper and legitimate wants and dealings."

In other words, the United States Bank of Pennsylvania became a Credit Mobilier, and engaged in promoting all sorts of enterprises all over the Union, and making financial contracts of various kinds.

"From March, 1835, the chief control and management of the affairs of the institution appears to have passed from the hands of the directors. The mode in which the Committee of Exchange transacted their business shows that there really existed no check whatever upon the officers, and that the funds of the Bank were almost entirely at their disposition. That committee met daily and were attended by the cashier and at times by the president. They exercised the power of making loans and settlements to full as great an extent as the Board itself. They kept no minutes of

their proceedings, no book in which the loans made and the business done were entered, but their decisions and directions were verbally given to the officers, to be by them carried into execution. The established course of business seems to have been for the first teller to pay on presentation at the counter all checks, notes, or due bills, having endorsed the order or the initials of one of the cashiers, and to place these as vouchers in his drawer for so much cash, where they remained until just before the regular periodical counting of the cash by the Standing Committee of the Board on the state of the Bank. These vouchers were then taken out, and entered as 'Bills Receivable' in a small memorandum book, under the charge of one of the clerks. These bills were not discounted but bore interest payable semi-annually and were secured by a pledge of stock or some other kind of property."

In November, 1835, fifteen of the branches had been sold. Until this time, therefore, it appears that the Bank was proceeding directly and steadily with the work of winding up its affairs. In November, however, projects began to be talked about for getting a State charter from Pennsylvania. One of the controlling motives, and perhaps the most powerful of all, in this and the subsequent proceedings, was the jealousy between New York and Philadelphia. There was a proposition to establish a great fifty-million-dollar bank at New York, and it seemed that if Philadelphia lost her bank and New York got one, the financial hegemony would be permanently transferred to the latter city. On two occasions already since the fate of the Bank was sealed New York had been in trouble, and had turned to Biddle for help. In December, 1835, after the great fire in New York, the Bank opened credits for two million dollars in favor of the insurance companies.* In May, 1836, in the midst of the financial stringency† New York called on the Bank of the United States for aid, which it gave. In the newspaper discussion over the first proposition that Pennsylvania should charter the Bank, the probable effect of such a step on the rivalry of the two cities was openly debated.‡

The whigs had a majority of forty-four in the House of Representatives of Pennsylvania, in January, 1836, but the democrats had five majority in the Senate. The proposition was first broached in the shape of a letter to Biddle from two members of the Legislature, asking him what should be the main features of a charter which would be satisfactory to the Bank. Biddle afterwards referred to this as if it had been a *bona fide* offer from these gentlemen, and in no way inspired by the Bank.§

The act for the Pennsylvania charter was passed February 18, 1836. It comprised three projects in an obviously log-rolling combination; remission of taxes, public improvements, and bank charter. It was no new thing in Pennsylvania or elsewhere to put into bank charters a requirement that the bank should subscribe to some public improvement, or charitable enterprise. Education was very commonly dragged in as a make-weight. This might

* 45 Niles, 307. † See page 264. ‡ 49 Niles, 162.
§ Letter to Adams, 1 Raguet's Register, 404.

be regarded as only an appropriation of a bonus which was exacted. In any case, the appropriation of it to some purpose which some people had very much at heart was intended to help the bill through. Remission of taxes was the most effective lever of this kind. The Bank was chartered for thirty years. It was to pay a bonus of two and a half million dollars; pay a hundred thousand dollars per year for twenty years for schools; loan the State not over a million dollars a year, in temporary loans at four per cent., and six million dollars on State bonds, payable in 1868 at four per cent., and subscribe six hundred and forty thousand dollars to railroads and turnpikes. The lowest note was to be $10, and elaborate rules which the law of the State already contained for enabling note-holders to enforce a remedy for non-redemption were here repeated. Personal taxes were repealed by other sections of the bill, and $1,368,147 were appropriated out of the Bank bonus for various canals and turnpikes. Evidently all the hobbies and local schemes in the State clustered around this big carcass and fought with one another for slices of it. The charter passed the Senate 19 to 12, and the House 57 to 30.*

A loud outcry was at once raised that this bill could only have been passed by corruption, because of the democratic majority in the Senate. A member of the House who had made such a statement was, after an investigation, called to the bar of the House and reprimanded for "an attempt to mislead public sentiment at the expense of the character and reputation of the Legislature of the Commonwealth."† At the next session the Legislature ordered an investigation of the method by which the United States Bank had obtained its State charter. The majority of the committee reported denying that the letter which had been written to Biddle was intended as an application to him on behalf of the State. A particular question had arisen already with regard to the continued issue of the notes of the old Bank. This the minority of the committee justified. As to the alleged corruption, nothing was discovered.

There was a mysterious item of $400,000 in the accounts at about this date which is often referred to. The only approximate explanation is in the second report of the Committee of 1841. On February 29, 1836, there were in the teller's drawer Biddle's receipts for money received on cashier's checks to the amount of that sum. They were taken out. At the same time a lot of notes of the old Bank were burned, including ten post-notes of $40,000 each, which had never been issued. One of these items was made to cover the other. The clerk, however, later discovered that the account of notes showed more burned than issued. June 27, 1840, the account was balanced by charging $400,000 to the contingent fund as losses.

It was common tea-table gossip in Philadelphia that the State charter was obtained by bribery.‡

Jackson's chief charge against the Bank at last was that it spent large

* 49 Niles, 434. † 50 Niles, 111. ‡ Handy's Testimony. (1842.)

sums to influence politics and legislation. This charge the Bank seemed to repel successfully, but the United States Bank of Pennsylvania began in political corruption and legislative abuse and never desisted from them while it existed.

Upon the passage of this charter the stock rose to 126. At the meeting of the stockholders Biddle said that the Bank had a surplus with which it could pay all the sums which the charter imposed upon it. The charter was accepted two days after it was passed, with great enthusiasm, and a service of plate was presented to Biddle for his services in getting it.* His salary was $8,000. Bevan was made president of the old Bank for the purpose of transferring it to the new, and on the 2d of March, all the assets of the old Bank were turned over to the new one on condition that the latter should assume all the obligations of the former.

April 11, 1836, Congress repealed the act of 1817, by which the United States Bank was charged with the duties of commissioners of loans. The Bank was ordered to hand over all the books, papers, and money within three months. April 20th, its duties as agent for the payment of pensions were ended. June 23d, the Secretary of the Treasury was charged with the property rights of the United States in the Bank, and was directed to act on its behalf, by virtue of its stock. June 15th the fourteenth section of the old charter was repealed, which made the notes receivable at the Treasury. This crippled the circulation of the Bank to some extent.

In October there was a report that the Bank would surrender its State charter if it could get back its bonus. In that same month, however, Biddle wrote another letter to Adams, showing the wrong which would be done by a plan which was on foot to call a State convention for the purpose of repealing the State charter. In November the question was raised in the Legislature whether the charter could not be repealed. It was disposed of by a general resolution affirming the inviolability of charters except by the action of the courts.

June 23d Congress authorized the Secretary of the Treasury to negotiate with the Bank for the payment of the government stock. No agreement was reached, but, February 25, 1837, the Bank sent a memorial to the Speaker of the House, in which it offered to pay off the public shares at $115.58 per share, in four installments; September, 1837, 1838, 1839, 1840. This proposition was accepted and the installments were all paid.† As the Bank sold new shares in England at £24 and £25, it gained on this operation. The Treasury tried, at this time, to induce the Bank to repay the damages which it had retained on the French bill.

In his message of 1836, Jackson discharged his last broadside at the Bank. He was very angry that it should have taken the State charter and prolonged

* 49 Niles, 441.

† The commissioners to adjust the accounts of the Bank with the government assumed that $600,000 of its circulation were lost and would never be presented for redemption. It was the estimate, in 1841, that five-dollar notes would be one-fourth of the circulation, and notes under five dollars another fourth. The lost notes were often estimated at ten per cent. of those below five dollars. (Treasury Report, February 12, 1841.)

its existence. His fears and the hopes of the Bank centered on the same point,—that it would be taken up again as a national bank. The most important complaint which he made of it was that it was re-issuing the notes of the old Bank.

When the State charter was taken, there were 3,417 stockholders, of whom there were Pennsylvanians 590; other citizens of the United States, 2,267; foreigners, 560. The distribution of the capital by ownership was, in the New England States, $3.1 millions; New York and New Jersey, $4.5 millions; Delaware, Maryland, and the District of Columbia, $2 millions; Virginia and North Carolina, $0.8 million; South Carolina and Georgia, $3 millions; other States, $99,000; Pennsylvania, $5.2 millions; foreigners, $9.1 millions.

The loans made by the Exchange Committee to the officers of the Bank and to the favored clique connected with it amounted, March 4, 1836, to $6.2 millions. On the same date, one year later, they were $8.1 millions. With regard to these loans the Committee of 1841 said: "In the list of debtors on 'Bills Receivable' of the 1st of January, 1837, twenty-one individuals, firms, and companies stand charged, each with an amount of $100,000 and upwards. One firm of this city [Philadelphia] received accommodations of this kind between August, 1835, and November, 1837, to the extent of $4,213,878.30, more than half of which was obtained in 1837. The officers of the Bank themselves received in this way loans to a large amount. In March, 1836, when the Bank went into operation under its new charter, Mr. Samuel Jaudon, then elected its principal cashier, was indebted to it $100,500. When he resigned the situation of cashier and was appointed foreign agent, he was in debt $408,389.25, and on the 1st of March, 1841, he still stood charged with an indebtedness of $117,500. Mr. John Andrews, first assistant cashier, was indebted to the Bank in March, 1836, $104,000. By subsequent loans and advances made during the next three years, he received in all the sum of $426,930.67. Mr. Joseph Cowperthwaite, then second assistant cashier, was in debt to the Bank, in March, 1836, $115,000; when he was appointed cashier in September, 1837, $326,382.50; when he resigned, and was elected a director by the Board, in June, 1840, $72,960, and he stands charged, March 3, 1841, on the books with the sum of $55,081.95. It appears on the books of the Bank that these three gentlemen were engaged in making investments on their joint account, in the Stock and Loan of the Camden & Woodbury Railroad Co., Philadelphia, Wilmington & Baltimore Railroad Co., Dauphin & Lycoming Coal Lands, and Grand Gulf Railroad and Banking Company."

Such was the internal condition of the Bank when the crisis of 1837 occurred.



CHAPTER XIII.—CONTINUED.

§ 2.—*The Multiplication of Local Banks.*

Taking the whole country over, there was a lull in the activity of the bank-making legislator from 1825 to 1832.

As has been said, the local banks did not arouse themselves against the great Bank at Jackson's first attack. They were not dissatisfied with their relations to it. The best of them stood in as much fear as anybody in the community of the possibilities of a bank mania. It was only after the debt was paid and the surplus revenue began to accumulate that the attraction of this bonanza overcame prudence and good sense. The popular sentiment now swung over again to a mania for banks. Each district wanted a deposit bank so as to get a share in the stream of wealth which was expected to flow from the public treasury. If a deposit could not be obtained, then a bank was formed in order to participate in the carnival of credit and speculation; for a non-deposit bank had the advantage of being bound by no rule. The deposit banks drew together from a community of interest, in order not to share the public deposits with a larger number. For two years, however, the amount increased faster than the banks did.

In order to take the place of one bank with $35 millions capital, which, after all, did not go out of existence, there were organized, between 1832 and 1837, 340 banks with $99 millions capital. The mania for banking was such that formal riots occurred at the subscription of stock, and men of pugilistic ability were employed to enter the subscriptions.* The fortunate few who could subscribe the whole sold to the rest at an advance. As the commissioners enjoyed this advantage, it was worth from $500 to $1,000 to be a commissioner.† The prospect that a bank could get some government money given to it intensified the notion already entertained by those who were desperately in debt, that the best way to escape was to join together

* 42 Niles, 257; 44 Niles, 371.

† 46 Niles, 188.

and make a bank. The Tammany society being in debt, a plan was proposed for paying the debt by making a bank.* When the great fire occurred in New York, in 1835, a proposition was made to create a bank as a mode of relieving the sufferers. "To make a bank," said Niles, "is the great panacea for every ill that can befall the people of the United States; and yet it adds not one cent to the capital of the community."†

The effect of this multiplication of banks and of the scramble between them for the public deposits was that an enormous amount of capital was arbitrarily distributed over the country, according to political favoritism and local influence, and in disregard of the industrial and commercial conditions. The banks which received this public money were expressly encouraged to loan it freely. Secretary Taney wrote to the deposit banks: "The deposits of the public money will enable you to afford increased facilities to the commercial and other classes of the community; and the Department [Treasury] anticipates from you the adoption of such a course respecting your accommodations as will prove acceptable to the people and safe to the government."

The banks used these deposits as a "basis for circulation." As soon therefore as this system began to work it produced a grand inflation, reaching out in all directions. In some cases the banks used the deposits which were given to them to put themselves in the position which they were required to occupy as a condition precedent to acceptance as deposit banks. The preliminary appearance which they presented was fraudulent, and was healed by the deposits after they got them.

The banks of VERMONT‡ were established by separate charters until 1831, the charters having, however, certain common features. The limit of issue was three times the capital; six per cent. of the profits to go to the State for a school fund. A peculiar feature was a provision that every bank director must give a bond for $8,000 to the State, to perform his duties faithfully under the charter. Any person who suffered by the bank might sue on one of these bonds. A safety fund act was passed in 1831. Each bank was to pay three-quarters of one per cent. per annum for six years, thus constituting a fund of four and a-half per cent. of the capital, which was to be kept good by assessments not exceeding three-quarters of one per cent. per annum. This fund was liable for all debts of a failing bank. No bank was to begin until fifty per cent. of its capital was paid in, for which oath should be taken to the Bank Commissioners appointed in the act. In 1840 this act was amended and extended, so that the whole of the capital stock must be paid in within two years, or the bank could not go on. The directors were made liable for any losses sustained by individuals through a violation of this act, and each

* Mackeinzie, 70.

† 49 Niles, 298.

‡ It will readily be understood that, in presenting the history of the several States, various considerations of expediency, which it is not necessary to explain, determine the point of time at which the history is taken up or broken off in each case, and also the order in which the States are put in the series.

of them must execute a bond to the State Treasurer such that the aggregate for each bank should equal its capital, with sureties residing in the State and not directors, or with mortgage security to the approval of the Bank Commissioners. Every cashier must also give bonds to the State in $20,000. The Bank Commissioner or receiver might order prosecution on these bonds for the benefit of claimants against the bank. No stockholder, director, or officer might owe a bank over five per cent. of its capital, and all of them together not more than what three per cent. for each would aggregate. No loan might be made on the stock of the bank; debts were limited to twice the capital plus the deposits; the banks were offered an inducement to comply with the Suffolk system by the provision that there should be one per cent. tax on capital, which should be remitted on any bank which kept a deposit in Boston for redemption. Instead of paying to the safety fund, a bank might give bonds with sureties or security to redeem its notes. In 1844, all the banks under this law redeemed in Boston, and paid no tax, and three gave bond instead of contributing to the safety fund.

In 1839 the Essex Bank failed. Its notes were presented to the amount of $34,426, of which $28,000 became involved in litigation. In 1844 the fund was $31,000; that is, inadequate to meet this loss if the entire claim was declared valid.*

MASSACHUSETTS.—"Between the years 1831 and 1833, a great increase took place in the number of banks in New England. During this period 90 new banks were chartered, of which 45 were located in Massachusetts. The Suffolk Bank became overloaded with redeemed bills; the banks were slow in making remittances; and the accounts of many of them were overdrawn. Accordingly the Suffolk Bank sent a circular to such of its correspondents as it allowed to overdraw, informing them that on account of the scarcity of money, and in order to have some control over its own funds, over-drafts must be limited to $10,000. It also adopted the rule that foreign money deposits must be made before one o'clock, otherwise they would not be credited till the following business day. At the same time it reduced the permanent deposits required from the Boston banks to $15,000 as a minimum."

"In 1834 the redemption business had increased five-fold; from $80,000 to $400,000 daily. The officers were employed till nearly midnight, and then often obliged to lay aside a large number of bills to be counted the next morning. To reduce the business and keep it within bounds, it became necessary to modify the arrangement made with the Boston banks. Heretofore they had been allowed to send in *all* their foreign money at par;—now they could send in on any one day an amount equal to one-half of their permanent deposit. If they exceeded that amount they were charged one-tenth of one per cent. on the excess. They were also restricted to the foreign money received by them in the regular course of their business.

* Treasury Report, August 10, 1846.

excluding deposits from banks and brokers. By these means it was hoped the business could be brought within reasonable limits. At the same time the permanent deposit of the Boston banks was reduced to $10,000; and in May, 1835, a further reduction was made to $5,000."

"During the winter of 1835-6 thirty-two new banks were chartered in Massachusetts, making a total increase of 78 new banks in this State during a period of six years, or more than double the number of banks in operation in 1830. And nearly the same ratio of increase took place in the number of banks in the New England States. In 1830 they numbered 169; in 1837, they numbered 321. Many of these banks were started with little or no real capital; specie was borrowed for one day to be counted by the Bank Commissioner, and on the next it was replaced by the notes of the stockholders. The bills of these banks, loaned in violation of the usury laws at high rates of interest, were used in the wildest speculations. The country was flooded with them, and specie was becoming scarce. The ratio of specie to deposits and circulation had fallen to one to thirteen and a-half, or less than seven and a-half per cent., the smallest then ever known. These bills poured into the Suffolk Bank for redemption; and in April, 1836, it sent a circular letter to 44 banks, whose accounts were overdrawn in the aggregate sum of $664,000, saying that it would send their bills home."*

In March, 1836, the Massachusetts Legislature allowed banks to issue post-notes to an amount not exceeding fifty per cent. of the paid-up capital, provided they issued no notes less than $5. This was repealed February 1, 1838. The tenor of the post-notes was: the bank promises to pay A. B. or bearer $1,000 in 7 months, with interest at the rate of four and one-half per cent. per annum until due and no interest after. This privilege was principally used by weak banks.†

This was properly a bond because it bore interest, but the term *post-note* was used at this time for notes which bore interest or did not, often producing serious confusion.

In 1836, a memorial was addressed to the Massachusetts Legislature for a Bank of the State, to have $10 millions capital, and the Banks of the State in Louisiana and Alabama were pointed to as models. "The wants of this community require the establishment of a bank with a capital sufficient to do the business which has heretofore been done by the Branch Bank of the United States." "It is proposed to establish a bank of $10 millions, one-half of which is to be subscribed by the State, and borrowed in Europe on State scrip, bearing interest at four per cent. per annum, redeemable in twenty years; and the other half to be subscribed by individuals.

"This scheme is based on the supposition that money can be borrowed in Europe, on the credit of Massachusetts, at four per cent. per annum, and that the difference between the interest paid by the State, on the money borrowed, and the dividend received from the bank on $5 millions bank

* Whitney, 23.

† Martin; Boston Stock Market, 9.

stock owned by the State, will, if reserved as a sinking fund, redeem the State scrip in twenty years, and leave the State the clear amount of $5,060,625. "To produce this result it is assumed that the bank will make semi-annual dividends of three per cent., after paying into the treasury one-seventh part of its profits, according to the experience in other banks; assuming also that the proposed sinking fund can be invested at five per cent. per annum, payable semi-annually, and that the State will add to this sinking fund the State tax on its own portion of the stock."

The memorialists think that within two years the stock of the bank would, if wisely managed, bring as high price in the New York market and on London Exchange as the average value of the stocks of the large banks in the middle and southwestern States—a premium of from ten per cent. to twenty-five per cent.

In 1838, the Committee on Banks was ordered to inquire into the expediency of this scheme; the bank to have branches in each county; the State to own part of the capital and to control the direction.*

The banks of RHODE ISLAND were organized, in 1836, around the Merchants' Bank of Providence, on the Suffolk system, the Merchants' itself being a satellite of the Suffolk.† The number of banks in 1838 was sixty-four, "being nearly one for every fifteen hundred persons. Almost every village has one, and their capitals vary from $20,000 to $500,000."‡

CONNECTICUT.—The charter of the City Bank of New Haven, May 28, 1831, varied considerably from the Connecticut type. The bank was bound to subscribe $100,000 to the Hampshire and Hamden Canal, and was not to be obliged to take in the State of Connecticut or any society as a stockholder; it was to be free from taxation until the canal should pay six per cent. on its capital. Being subject to charges and investigation, in 1837, the bank replied that it had been forced to invest its funds out of the State because the additional banking capital was not needed; that the canal men got up the bank in order to get the capital; that the canal had been sold out and the subscription of the bank lost. It claimed to be almost the only bank north of the Potomac paying its promises in "constitutional currency." The chartered banks of the State resented the appointment of Bank Commissioners, in 1837, and refused to pay their share of the expenses of the commission, as provided by law. The Legislature did not try to force them, but paid their quota from the State Treasury.

NEW YORK.—An amendment to the safety fund law was adopted May 11, 1835, which was chiefly aimed against usurious devices. The Bank Commissioners were to examine the officers on oath on these points, and obtain an injunction against any bank violating this law. In April, 1836, there were in the city seventeen safety fund banks and six others; in the country, sixty safety fund banks and four others. January 1st, the safety fund was estimated at $540,285.§

* 1 Raguet's Register, 281. † Treasury Report, January 4, 1837. ‡ 2 Raguet's Register, 348.
§ 50 Niles, 136.

The circulation of the safety fund banks was limited, May 16, 1837, by an elaborate scale; a bank of $100,000 capital being allowed $150,000 circulation; one of $120,000 capital, $160,000 circulation, and so on, the proportion of circulation to capital diminishing with the increase of the latter, until, at $200,000 the two were equal. Then the circulation was made less than the capital, until a $1 million bank was allowed only $800,000, and one of $2 millions only $1.2 millions circulation. The Comptroller was authorized to apply a portion of the safety fund to the redemption of the notes immediately after a failure, so as to prevent them from depreciating; but a Bank Commissioner must make a certificate before this could be done "that the amount of the debts of such banking corporation over and above its property and effects, will not exceed two-thirds of the amount of the bank fund then paid in and invested, exclusive of all prior established claims thereon."

The safety fund law originally provided that the Governor and Senate should appoint one Commissioner, the banks in the city and southern part of the State a second, and the other banks the third. This was changed in 1837 to give the appointment of all three to the Governor and Senate. "This of course brought them within the vortex of the great political whirlpool of the State, and the place was sought for and conferred upon partisan aspirants without due regard in all cases to their qualifications to discharge the delicate trust committed to them."*

So much of the law of 1818 as forbade any person or association of persons to keep offices for the purpose of receiving deposits or discounting notes or bills was repealed by a law passed February 4, 1837, but any corporation, created by the laws of any other State or country, was still forbidden to keep any office for the purpose of receiving deposits, discounting notes or bills, or issuing bank notes. This shut out any branch of the United States Bank of Pennsylvania.

PENNSYLVANIA.—The most perfect specimen we have of a deposit bank, showing the demoralization and mischief produced by that system, is the Girard Bank. It was founded in 1832; in 1834 it got a share of the public deposits. To make this share larger an act of Assembly was procured in 1836, increasing the capital from one and a-half million to five millions and extending the charter twenty years. The stockholders gave the cashier two hundred shares of the stock for his agency in procuring the passage of the act. The increase of capital was paid by stock notes and the bank was largely occupied in stock-jobbing to carry out this operation. "The maximum of government deposits having been obtained, a system of prodigality in loaning them out was commenced, which baffles the conception of sober and reflecting minds, and of which we have but few examples, even in the annals of modern banking." In fact, the paid-up capital was never over two-thirds of five millions, but the government deposits ran at times as high as four

* Comptroller Fillmore, 1848.

millions. The assets consisted very largely of unavailable loans, so that with a discount line of six or seven millions, scarcely two hundred thousand dollars was in active business paper.*

In 1836 Dr. Dyott of Philadelphia established what he called a Manual Labor Bank. "His motive for this is to give to the meritorious workingman the full legal interest which he ought always to obtain for his savings." The doctor filed a mortgage for $500,000 on his own real estate, as security for his notes, which were for five cents and above. He also issued postnotes for sums from $1 to $20. He owned glass-works and houses, and had a store containing various commodities. He seems to have been another case of a man who committed crime under the influence of a mixed philanthropic and financial delusion.† He was 70 years old and was sent to the penitentiary for three years, but was pardoned by the Governor.‡

VIRGINIA.—The charter of the Bank of Virginia, having been extended January 24, 1814, until 1833, was further extended, February 17, 1830, for nine years and one month. As will be seen in the other renewals which follow, the plan was adopted of making all the charters expire June 1, 1842; that then all the banks might be put under a general law. A bonus of $51,306 was demanded for the State, to be obtained by reserving from the dividends of the private stockholders 30 cents per share. The State deposits were to be put in this bank. Its notes were to be receivable by the State while it paid specie; but this provision might be revoked. The charter of the Bank of the Valley was extended, February 18, 1830, for eight years and one month, to bring it to June 1, 1842; bonus, $10,000, which was not to be taken from the State stock. March 4, 1831, the charter of the Northwestern Bank was extended to the same date, with an increase of capital of $300,000; bonus, $5,000.

At this time the State of Virginia was out of debt and its finances in good order. In 1833, a reduction of taxation was proposed, but, instead, the State took up the policy of internal improvements. In 1832 the James River and Kenawha Company was incorporated; also several railroad companies. "The State took stock in most of these companies, and appropriations were made in aid of the Chesapeake and Ohio Canal, besides many other minor works. In the course of a few years large sums of money had to be raised by the State." One party insisted that the improvements, as they were made, would provide the interest and when finished would pay that and sink the principal too; another party insisted that taxes should be laid for the interest, lest the State credit should suffer. Within ten years a debt of $7,650,000 was contracted, of which the banks had taken $770,000; $1.4 millions belonging to the State and State institutions had also been absorbed; $2.3 millions were held abroad. The works in which the State held stock produced scarcely any revenue.§ The effects of this policy appear immedi-

* Report of the Stockholders' Investigating Committee, 1842.

† 2 Raguet's Register, 248, 352; 2 Watts & Sargeant, 463; 56 Niles, 36. ‡ Gouge; Journal of Banking, 7.

§ Governor's Message, 1842.

ately in the history of the banks. February 16, 1833, the Bank of Virginia and the Farmers' Bank were authorized to subscribe to the James River and Kenawha Company not more than 5,000 shares. March 4th, they were allowed to increase their capital, in order to pay for these subscriptions.

The Merchants and Mechanics' Bank of Wheeling was incorporated March 7, 1834; capital $500,000; to last until 1854; bonus $25,000; 12 per cent. penalty for suspension; debts, exclusive of deposits, limited to twice the capital. In an explanatory act, February 17, 1835, the intention was declared to allow no notes under $5 after June 1, 1842; and the right was reserved in this charter to legislate further as to the lowest denomination of notes.

An act for the general regulation of banks was passed March 22, 1837. Banking powers were defined; three-fifths of the capital was to be paid in in coin before beginning; the lowest denomination of notes, until July 1, 1840, was to be $10; after that $20; the circulation was never to exceed five times the coin reserve; 15 per cent. penalty for failure to redeem; a bonus of a quarter of one per cent. on the capital was to be paid by creating extra stock, which should be a fund for internal improvements. The act was long and full of detail, embracing the general features of the Virginia charters with some comprehensive improvements. It stands in the history as a record of the pious intentions of the Legislature at the moment that the storm burst upon them. They proceeded, however, at once to other legislation likely to have a very different effect. The Exchange Bank of Norfolk, with three branches, $1.8 millions capital, half by the State, to last until 1852, was chartered March 25th. Additions, aggregating $3.2 millions, to the capital of the existing banks were proposed, half by the State, and the charters were extended until 1857, if the banks would come under this law and the general law; the limit of notes to $10 was postponed until October 1st. The State proposed to pay its subscriptions with its share in the distribution of the federal surplus, the remainder of which was to be loaned to the Bank of Virginia and the Farmers' Bank at 5 per cent.

North Carolina.—"An act to establish a bank in the State of North Carolina" was passed at the session 1833–4; capital $1.5 millions; until 1860; the State to have an option on two-fifths of the capital, and to pay its subscription, if it decides to use its privilege, as the other subscribers do, in specie or its equivalent; the option to be open until 1837; to have four out of ten directors if it takes all the shares reserved to it; the State Treasurer to be *ex-officio* a director; tax 25 cents per share; 12 per cent. penalty for non-redemption; lowest note $5; limit of circulation twice the capital. A supplementary act provided that the Treasurer might borrow of the Bank of Cape Fear and the bank at Newbern, if it should seem expedient, apparently implying that he might borrow to pay this subscription. In an account of the organization of this Bank of the State, it is stated that the commissioners at first found it difficult to decide what was "equivalent to specie." Their decision was unanimous, but the document does not tell what it was. It is

only stated that the subscriptions have all since been "rendered available as specie." The subscriptions went on slowly. State deposits were still made in the old Bank of the State. The Treasurer wanted them put in the new one.* The Cape Fear bank was rechartered at the session of 1833–4, until 1855; capital $800,000; to have branches as might appear expedient; to lend the State not over one-tenth of its capital; twelve per cent. penalty for non-redemption; lowest note $3. Under the act of 1829 for winding up the bank, part of its capital stock had been bought in. New shares were now to be subscribed to restore it; to be paid in specie or its equivalent. At the same time the Merchants' Bank of Newbern and the Albemarle Bank of Edenton were incorporated. The only peculiar feature was that no director might owe to the bank more than the stock he owned. The charter of the Merchants' Bank of Newbern was re-enacted at the following session, with some slight changes; the lowest note was to be $5. In 1835, the State Treasurer was ordered to issue $400,000 in five per cent. certificates, payable in 1860, and to pay the proceeds on the State subscription of stock in the Bank of the State. The bank stock was pledged for these bonds.

The Southwestern Railroad Bank, being the banking side of the Louisville, Cincinnati, and Charleston Railroad, was chartered by North Carolina, January 20, 1837. Three of the States, North Carolina, South Carolina, Tennessee, and Kentucky must concur before this act would be valid. Every one who subscribed one share of the railroad stock at $100 might subscribe also one share of the bank stock at $50, until the former should be $12 millions and the latter $6 millions. The mother bank was to be in Charleston; the lowest note $5, until the railroad should be built, and after that, $10; twelve per cent. penalty for non-redemption; each share of stock in the railroad to be inseparably connected with one share of stock in the bank, and they were to be transferred together; the bank to pay no tax until the railroad was completed.

The charter of the Cape Fear Bank was extended January 23, 1837, until 1860; the capital might be increased to $1.5 millions, the State taking $300,000 and the public $400,000 of the increase. If this capital should prove too big, the bank might get permission from the Legislature to buy in shares.

South Carolina.—The charters of the Planters and Mechanics' Bank and the Union Bank were extended, December 18, 1830, for twenty-one years; each to pay a bonus of $25,000. The Bank of Columbia was chartered December 17, 1831, until 1853; capital $500,000, increasable to $800,000. On the same day it was enacted that all the officers and directors of the Bank of the State of South Carolina should take an oath not to reveal the secrets of the bank. It was prescribed what records should be kept. The officers were not allowed to buy any State stock; the stock of the State Bank owned by the State was to be sold and other safe stock bought. The charter of the Bank of South Carolina was extended for twenty-one years, December

* Session Laws of 1834-5. Appendix.

20, 1832; bonus $16,875; the capital might be increased to $1 million by paying a proportionate bonus. The charter of the State Bank was renewed December 19, 1833, for twenty-one years; bonus $20,000, provided the stockholders make up the deficiency in the capital. On the same day, the charter of the Bank of the State of South Carolina was extended until 1856. It was to call in all notes under $1 and issue no more. On the same day the Bank of Cheraw was incorporated. December 17, 1834, the Bank of Charleston was established; until 1856; capital $2 millions; bonus two and a-half per cent. of the paid-up capital. The Camden Bank followed, December 19, 1835, and the Bank of Hamburg the same day. The State Bank was allowed to increase its capital to $1 million, December 21, 1836, and the Southwestern Railroad Bank was incorporated the same day; also the Bank of Georgetown.

It is very doubtful whether the notes of the Bank of the State of South Carolina, under $1, were actually retired;* but that bank was required, by an act of December 20, 1837, to issue notes for 50 cents and 25 cents.

The subscription of the State of South Carolina to 10,000 shares of the Southwestern Railroad Bank was enacted December 19, 1838, and that bank was authorized to set up agencies in South Carolina. It was reported in the previous October that General Hamilton had secured a loan in Europe, which he was bringing home in specie to start that bank.†

In 1838 a debt was contracted by the State to rebuild the city of Charleston. The bonds were called "fire loan" bonds. These bonds were negotiated by the Bank of the State and the money realized from them was to be deposited in the bank and become a part of the capital of it, which should be loaned to persons who intended to rebuild. All the profits of this additional capital were to be set apart to pay the interest and principal of these bonds, which would fall due, half in twenty and half in thirty years. A special account was to have been kept with this fund, and the profits of the same, with the general profits of the bank, were to be applied to extinguish it. The separate account was not kept and the bonds were not retired.

GEORGIA.—In the years 1830 and 1831, the multiplication of banks commenced in this State also and the charter of the Bank of the State was extended until 1855. A committee of the House recommended, December 16, 1830, that the Darien Bank should be wound up, proposing either that the State should buy out the other stockholders or that it should refuse to extend the charter. The capital should be put into the Central Bank; the return would equal half the State tax, and would relieve the people of the burden of supporting the State government. Another gain would be, they said, that the Legislature would then no longer relieve debtors to the bank, because if they did, it would become necessary to lay taxes. A few days later a special report on the Darien Bank was made, which was very lauda-

* Treasury Report, January 4, 1837; ditto August 10, 1846.

† Niles' Register, 271.

tory. Once it had a circulation of $1.8 millions; now it has only $200,000 out and is entitled to as much confidence as any bank in the State. A year later a legislative committee stated that the Central Bank had a circulation of $111,996; specie $80,656; United States Bank notes $50,805; notes of State banks $108,653.

All notes under $5 were forbidden, December 24, 1832, and on the same day the charter of the Bank of Macon was repealed because it was not redeeming its notes in specie. They had ceased to be current and were depreciated. Also ten per cent. damages and interest for a failure to redeem notes in specie were imposed on behalf of individuals; the law did not apply to banks which demanded specie. Also semi-annual reports were demanded from all banks, in order to keep them sound and to secure the noteholders. The notes of delinquent banks were not to be received by the State. At the same time the Central Bank was ordered to put to the credit of the treasury funds to meet the outstanding treasury warrants, not in excess of $180,000, charging the same to the capital stock of the bank. At this time a committee very pertinently raised the question whether the State intended to draw from the funds of the bank the means to pay the most ordinary expenses of government, and so to destroy its usefulness. A long report was also made on the Macon Bank, which had failed July 28, 1832, having a large outstanding circulation. The committee estimated it at $453,130, which was $127,231 in excess of the amount stated by the bank in its return. Schemers had bought up the whole capital of the bank at a premium with its funds. At last the sole owner died insolvent. False returns had been repeatedly made.

The charter of the Darien Bank was extended, December 19, 1834, until 1855.

The act against small notes was declared, December 22, 1835, to have been beneficial. For the future only five's, ten's, twenty's, etc., were to be allowed. At that time the Bank of Milledgeville was incorporated and in December, 1836, five more. It was enacted, December 22, 1836, that debts to the Central Bank might be renewed once in twelve months instead of once in six months, and the trustees of Oglethorpe University were allowed by law to subscribe the funds of the University into the capital stock of the Bank of Milledgeville at par, because all other bank stock was at a premium. At this time the Central Bank had loans outstanding $1,103,111, of which there was in suit $46,924; unpaid $211,058; bills under protest $72,400. A report on the Bank of the State showed the capital, $1.5 millions; circulation, $151,742; surplus, $110,100.

ALABAMA.—Inasmuch as the Constitution of Alabama provided that there should be only one Bank of the State, it was necessary, when other banks with capital obtained on the State credit were thought to be required, that they should be organized as branches of the Bank of the State. The consequence was that the Bank of the State of Alabama came to consist of branches almost entirely independent of the first one, which was considered

the parent bank, at Tuscaloosa. The first such branch was established January 21, 1832, at a place to be set by the Legislature. It became the branch at Montgomery. The capital was to be $300,000, provided it could be obtained on a five per cent. loan at par. It was not to come from the existing Bank of the State. The Legislature were to elect the president and directors; it was to last until 1845; lowest denomination of notes $1; to report to the Bank of the State at Tuscaloosa and be subject to examination by it; debts exclusive of deposits not to exceed twice the capital; the faith of the State was pledged for the redemption of the notes and payment of its debts. November 17th, another branch was established at Decatur, for which five per cent. thirty-year State stock to the amount of $1 million was to be issued.* The provision in the charter of the Bank of the State that its loans should be allotted to the counties by population was repealed January 12, 1833, and the Governor was to appoint three Commissioners to examine the Bank of the State at any time when they should see fit.

The Bank of Mobile was authorized, January 16, 1834, to increase its capital to $1.5 millions, two-fifths of which was to be reserved for the State; extended to 1859; bonus $100,000, to be paid in annual installments in lieu of taxes during the charter period. January 18th, the Bank of the State and its branches were allowed to issue post-notes payable to specified persons, running not over ninety days, and bearing no interest until after payment was demanded. This was extended January 2, 1835, by allowing them to issue post-notes for one-half their paper issue, one-half of which should be payable at Boston, New York, and Philadelphia, with the same restrictions as before. Another branch of the Bank of the State was established at Huntsville, January 10, 1835. Five per cent. thirty-year bonds were to be sold to the amount of $1 million, half for the capital of this bank, and half to increase that of the branch at Decatur. The lowest denomination of notes for this branch was set at $5. On the same day the capital of the Bank of Mobile was increased to $1,850,000, and State bonds were to be sold to take up the two-fifths reserved for the State.

The Planters and Merchants' Bank of Mobile was chartered January 8, 1836, for twenty years; capital $5 millions; lowest denomination of notes $5; limit of issue, twice the capital; two-fifths of the capital reserved for the State; annual bonus, $7,500, in lieu of taxes. January 9th, all taxes were abolished except those on shows, games, etc. The sum of $100,000 was set aside from the revenue coming from the stock owned by the State in the Bank of the State to pay the State expenses. This sum was to be put to the credit of the State by the bank and branches, in the parent bank, November 1st of each year. On the same day the capital of the Huntsville branch was increased $500,000; that of the Bank of the State, $400,000; that of the Montgomery branch, $500,000; that of the Mobile branch, $1 million; and

* The make-up of the volume of session laws seems to be defective, and the law establishing the branch at Mobile is wanting. It is afterwards referred to as having been established December 4, 1832.

five per cent. thirty-year bonds were to be sold to raise the whole. At the next session, December 23d, the Governor was directed to appoint three Commissioners annually to examine the Bank of the State at Tuscaloosa as other commissioners already examined the branches. The president of the Bank of the State was to receive the dividends on the stock owned by the State in the Bank of Mobile, and pay the semi-annual interest on the bonds issued for that stock; any surplus to go to the sinking fund.

The surplus revenue distributed to the States in 1837 was deposited by this State in the Bank of the State and branches.

Thus Alabama had everything prepared for the millenium just as the judgment day dawned.

The whole amount of bonds issued by Alabama for banks was $15.4 millions. The State Treasurer reported that there was no record of some of the bonds in any department.* In 1837, there were seven banks in all, in which the State owned $10.1 millions stock, of which $6.8 millions were in the Bank of the State and branches. The circulation of the State, November 1, 1836, was $7 millions; February 1, 1837, $10 millions; May 1, 1837, $5.5 millions. At the last date the Bank of the State and branches had $9 of circulation to $1 of specie; the demand liabilities were to the cash assets as 18 to 1. The circulation of the two stock banks was to their specie as 3 1-2 to 1; their immediate liabilities to their cash assets as 7 to 1. The profits of all the banks from November to May were nearly ten per cent.†

The notes of the Bank of the State were decided not to be bills of credit by the Supreme Court of the State,‡ and by the Supreme Court of the United States.§ The latter case, Darrington *vs.* the Bank of Alabama, is a reaffirmation of Briscoe's case.

LOUISIANA.—"A Bank of the State of Louisiana" was chartered April 7, 1824; capital $4 millions; half by the State; the installments of the private subscriptions extended over two years; State subscription in five per cent. bonds at $100 of bonds for $83 1-3 of stock; bonds payable to the bank and assignable by it; the bank to pay the interest on the bonds out of the State dividends and the surplus to be a sinking fund for the principal; if the dividends were less than the interest, the bank was to pay the deficiency and be repaid by the State; the Governor and Senate to appoint six out of thirteen directors; the directors to choose the president; half the capital to be loaned on land; never to suspend under twelve per cent. penalty; to have five branches, the directors of which to be appointed by the directors of the mother bank. In a supplementary act of April 10th, it was ordered that $5 should be paid in cash on each share, and $15 in a promissory note with endorsement. Nothing is said of its relation to the former Bank of the State of 1818. In a supplementary act of November 30th it is called the Bank of Louisiana.

* Johnson's Report on Assumption. † 1 Raguet's Register, 56. ‡ 3 Alabama, 258. (1842.)
§ 13 Howard 12. (1851.)

The State directors in the "Bank of Louisiana"* were directed, April 7, 1826, to remonstrate against a reservation of surplus profits greater than the Legislature thought necessary.

The Bank of the State sold the State bonds to Thomas Wilson & Company, of London, October 23, 1824. The bank had resolved that if the bonds sold above 83 1-3, the surplus could not be divided as profits, except in proportion as the surplus of the State dividends above the State interest, being applicable to the redemption of the bonds, should cancel $400,000 of them (that is, the first sixth of the total issue of $2 millions at 83 1-3). The State's share of the profit on the bonds was $300,931. The Legislature by an act of March 24, 1827, ordered the bank to buy bonds with this amount and put them in the sinking fund. The bank appears to have intended to hold this sum as a further guarantee to the bond-buyers. On the same day, the number of State directors was increased to seven.

We now come to the institution which proved the germ of a new class of land banks. The Consolidated Association of the Planters of Louisiana was incorporated March 16, 1827. The capital of $2 millions was to be raised by loan, the company selling bonds and taking mortgages from its members for the loans made to them. On this plan the scheme was not workable. The bonds of the company could not be sold, probably because there was no available capital in the State, and the association could not command credit abroad. Another act was accordingly passed, February 19, 1828, by which the State lent its bonds to this company to the amount of $2.5 millions, thus putting the State credit in the place of their credit, and enabling them to bring in capital from abroad. The company was to guarantee the State by assigning to it mortgages, given by the stockholders, to the amount of $3 millions, for their stock. Ten thousand shares were given to the State as a bonus.

The New Orleans Gas Light Company, which afterwards became a bank, was chartered February 7, 1829.

The City Bank of New Orleans was incorporated March 3, 1831, until 1850; capital, $2 millions; to lend the State $100,000; lowest note $5; never to suspend redemption in "current money of the United States" under a penalty of twelve per cent. Existing banks were authorized to pay interest on deposits. Two days later the New Orleans Canal and Banking Company was incorporated until 1870; $4 millions capital; to cut a canal through the city from Lake Ponchartrain. It was to lend the State, when required to do so, not over $600,000, for not less than ten nor more than twenty-five years, on bonds of the State. It was to have three branches and two-thirds of the capital at each was to be loaned on real estate; so that it appears that its capital was to be used three times, for a canal, a loan to the State, and private loans.

* The usage came to be that the one chartered in 1818 was called the Louisiana State Bank, and that of 1824, the Bank of Louisiana.

April 2, 1832, the Union Bank of Louisiana was chartered. It was an extension and perfection of the idea of the Consolidated Association, and was afterwards imitated in Florida, Arkansas, and Mississippi. The capital was $7 millions; to be subscribed by citizens and landowners of Louisiana only. The State was to issue to the bank $7 millions of assignable bonds, for which the subscribers to the stock were to give mortgage security. If mortgaged property was offered, double the previous mortgage must be deducted, and it might be taken as security only for the residue. The period of the bank was twenty-five years; the Governor and Senate to appoint six out of twelve directors; lowest note $5; commissioners in each parish were to appraise property as security for stock subscription or for loan; one-sixth of the profits to go to the State and the other profits to accumulate for the payment of the State bonds; never to suspend under ten per cent. penalty; the capital exempt from all taxes; the State entitled to a credit of $500,000 and each stockholder to a credit equal to half his shares; during the three last years of the period, the bank to be wound up; to be eight branches; two-thirds of the capital at each to be lent on mortgage; these loans to be repaid in eight years by annual renewals and curtailments; all of them to end with the twentieth year.

A year later, April 1, 1833, another of these "property banks" was founded; the Citizens' Bank, with $12 millions capital; the stock to be subscribed by mortgage notes; the bank to issue bonds bearing a statement of the mortgages of the stockholders behind them; the titles to be searched and the property valued by persons appointed by the bank; to have full banking powers; never to suspend; the State to be entitled to a credit of $500,000; part of the capital to be allotted amongst the parishes; to last fifty-one years; lowest note $5. If this bank did not dig a canal named, within eight years, it was to pay the State $500,000. It also had permission to build a railroad. Commenting on this charter, the Supreme Court of the State said that insolvent laws and the statute of distributions did not exist for debts to it. "No legal incapacity could be pleaded by its debtors. No exceptional jurisdiction could obstruct the collection of debts due to it."*

In the same year the Commercial Bank of New Orleans was organized to build water works, and the Mechanics and Traders' Bank, of whose directors five were to be mechanics.

In 1836, a number of banks, improvement schemes, and railroads were authorized. It appears that the Citizens' Bank had not been able to raise its capital. January 30, 1836, a law was passed to issue State bonds to enable it to do so; the State to take the stock mortgages, which must exceed the bonds by one-fifth; the State was to have one-sixth of the profits and the bank was to pay as a bonus annually, so long as the charter lasted, $5,000 to each of three colleges. The bonds were to be sold within two years at not less than par. Upon the subscription of its stock, 167 subscribers in

* 12 Louisiana, 229. (1857.)

the city got shares to the amount of $4.7 millions; 107 subscribers in the country got shares for $3.2 millions.* It carried on two lines of business,—a loan office business and that of discounts and deposits, also issuing circulation. March 13, 1839, the Legislature ordered it to establish more branches.

The Commercial Bank denied the right of the State to visit it, except with respect to its water works. By resolutions of March 2, 1836, the Attorney-general was called on for his opinion on this point, and to test it in the courts if he thought there was hope of establishing such a right.

Just before the crisis occurred a legislative committee, commenting on the two classes of banks in the State, the stock banks and the mortgage loan companies, gave the preference to the latter because the former, whose stock was chiefly owned by persons out of the State, drew away not only the interest on their capital but also all the profits on it, while, in the second class of banks, the outsiders were paid only the pure interest on their capital and the profits remained in the State.

FLORIDA.—The first act passed by the Legislative Council, in 1828, over a veto, was the charter of the Bank of Florida. The charter was repealed and re-enacted in the following year. This bank was the subject of much complaint because it was managed with a view to private profit, and disappointed the hopes that it would serve the public. Hence the Central Bank was incorporated in 1832, which bought the former. The Bank of West Florida was chartered in 1829, over a veto, and the charter amended in the following years, likewise without the Governor's assent. The Committee on Banks in 1839† said of it: "The pledges made having been violated, and thousands of dollars of the notes of this bank remaining unredeemed, and the bank appearing to have no fixed or permanent abiding place, subsequent Legislatures directed proceedings to be instituted to recover its violated, lost, and fugitive charter. Obedience to these directions has been neglected, and no proceedings have been instituted. This charter is defunct from *misuser* as well as *non-user*. The bank is not to be found in the Territory; no return has been made from it for several years, although the Committee have been informed that certain persons, formerly stockholders, and still claiming to own the charter, have been endeavoring to effect a sale of it."

The Bank of Pensacola was chartered in 1831, against a veto. Many amendments followed until its capital stood at $2.5 millions. "The Governor was authorized to loan to this bank the guaranty of the Territory for $500,000 of its bonds, to be issued upon certain conditions; two-thirds of the proceeds of which are to be appropriated in the creation of a railroad to Pensacola, and the other third to be applied to banking purposes; but no dividends to be made until the bonds are paid. No bond was given, or other equivalent made, for the charter or for the aforesaid guaranty, nor any security but the

* Treasury Report, January 8, 1838.

† The citations which ollow are from its report.

hypothecation of the stock of the bank and railroad." The individual liability of the stockholders of this bank was repealed, February 10, 1838, but it was still affirmed on all the bonds issued for it.

"In 1832, the Central Bank of Florida was incorporated against the executive veto. Its capital was $1 million, and the duration of its charter extended till 1850. This bank is in good credit, and is judiciously managed, and there can be no doubt of its continuance in sound condition while under the same control as at present."

"In 1832 the Merchants and Planters' Bank of Magnolia was incorporated, with a capital of $600,000. It got a short time after into the hands of some speculators from an adjoining State, and in January, 1834, broke; but, notwithstanding, upon the most solemn pledges, as in the case of the Bank of West Florida, of speedy redemption of its paper, a supplementary act amending the charter was passed within a fortnight afterwards, against the veto of the Governor. These pledges have never been redeemed, and thousands of dollars of the worthless notes of this institution are unpaid, in the hands of our suffering citizens."

The Commercial Bank was incorporated in 1833; capital, $500,000. The Committee of 1839 spoke of it as "of undoubted credit and solvency."

In 1833, the Union Bank of Florida, destined to become the most famous of them all, was incorporated. The charter is not copied as to language from that of the Louisiana Union Bank, but the institution is very closely imitated. The capital—$1 million, increasable to $3 millions—was to be raised by bonds of the Territory, made payable to the order of the bank, for which the Territory was to be secured by mortgages of the lands and slaves of the stockholders. A variation in this charter was that here there was to be no distribution of profits until the bonds were paid; then only by permission of the Legislature, and one-half the profits to go to the Territory.

The Farmers' Bank was chartered in 1834; capital $75,000. The Committee of 1839 could not find out anything about it. It was reported to be operating in Georgia.

"In 1835, the Southern Life Insurance and Trust Company was chartered, with powers and privileges of the most extensive and diversified character. Its capital is $2 millions, with the privilege of increasing it to $4 millions. It is directed to report to the Court of Appeals annually, which report is to be made to Council. No such report has ever been made, or any other. The capital stock of said bank is to be taxed at the same rate as all other personal property of the Territory, but the tax is not to exceed $5,000. The Territorial guaranty is to be given on the bonds of the corporation, under certain conditions; $——— of these bonds have been thus guaranteed. This bank claims to be located at St. Augustine, but, it is said, is chiefly conducted in New York, and has an agency at Appalachicola. No tax has ever been paid, and the Committee are totally in the dark in regard to the capital or other affairs of the bank, in consequence of the neglect to make returns according to its charter and the general law of 1833."

At the session of the Council in 1836 the St, Joseph's Banking Company, the Florida Insurance and Banking Company at Pensacola, and the St. Joseph's Insurance Company (without banking privileges), were incorporated.

These proceedings of the Territory had attracted the attention of Congress. Webster made a report from the Committee on Finance strongly condemning the plan of most of these institutions.* The result was the act of July 1, 1836, by which it was enacted that no law of a Territory incorporating a bank should be of force until approved by Congress, and all the acts of Florida of 1836, which created banks, were disallowed. On this the Committee whom we have been quoting say: "This course on the part of Congress is not such as the people of this Territory had a right to expect, relying as they have, upon the liberality and intelligence of those bodies."

Few will think that the power of the federal government to disallow the acts of a Territory had been exercised any too soon. In 1838, it was reported that the old Bank of West Florida had been re-organized.†

One-fifteenth of the shares of the Union Bank were held by one man, one-sixth by three men, one-third by eleven men, one-half by twenty-five men, and five-sixths, or nearly the whole by eighty men; who in addition to the loans upon their mortgages were supposed to be otherwise indebted to the institution.‡ Evidently a clique got the whole enterprise into their hands, substituted the stock for the bonds, sold them, divided the proceeds as loans on the mortgages of their plantations. Then the worse the bank became, the cheaper they could buy its notes with which to pay the loans; or, the more desperate the confusion and bankruptcy, the greater the chance of evading payment altogether. If interest was paid, the loans had twenty or thirty years to run, and the mortgaged property was barred against other creditors. If the lands were mortgaged for all they were worth, the insiders endorsed for each other and borrowed more. There were, therefore, several lines of exploitation on which they could operate.

MISSISSIPPI entered on her great experiment in banking February 10, 1830, with the charter of the Planters' Bank. The preamble states the purpose to be to give an impulse to labor, by an increase of the circulating medium; to relieve taxation by creating a revenue for the people; and to "enable them to realize the blessings of a correct system of internal improvements." This bank was established at Natchez; $3 millions capital, of which $2 millions by the State; until 1855; subscriptions to be in specie and notes of the Bank of the State; the Auditor to pay the State subscriptions, with five per cent. bonds, redeemable in four sections, in ten, fifteen, twenty, and twenty-five years, drawn to the bank and assignable by it; the bank to sell the bonds and provide for the interest; surplus of dividends over the interest of the bonds to be a sinking fund to redeem the bonds; if the interest was greater than the dividends, the bank was to pay it; the Governor and Senate were

* 24 Cong., 1 Sess., 6 Sen., 409. † 1 Raguet's Register, 366. ‡ Committee on Banks, February 25, 1840.

to appoint seven directors, the stockholders six; the Governor was to sell the stock of the State in the Bank of the State, except 50 shares, and apply the proceeds on the State subscriptions in this bank; the State funds invested in the bank were to be kept separate; the surplus in the treasury and the miscellaneous revenue were to go into the capital of the bank; no note to be issued under $5, and the note issue not to exceed three times the capital, plus the money on deposit; half the capital was to be loaned on mortgages of lands to be valued by five commissioners appointed by the president and directors, in each senatorial district; the loans were to be allotted between those districts; statements were to be rendered as often as the Legislature might require. The notes were receivable by the State and the State money was to be deposited in the bank. It was exempt from taxation. There were to be branches. On the same day it was provided that the Bank of the State of Mississippi might discount paper at twelve months, at not over 8 per cent.

The Bank of the State of Mississippi was authorized to wind up, December 19, 1831, taking no new business after January 1st. It might renew loans on notes of deceased persons until December 31, 1837, and might deal in exchange so long as the Planters' Bank consented. In consideration of these privileges, the bank was to release the State from all claims for damages, etc., apparently on account of the breach of the promise that no other bank should be established before 1840.

The charter of the Planters' Bank was revised February 5, 1833, to last until 1870. The private subscriptions might be increased $1 million and the State was to add $1.5 millions, in State bonds, to be negotiated by the bank. The Agricultural Bank of Mississippi was chartered February 27, 1833; $2 millions capital; until 1855; the issue limited to three times the paid-up capital; half the capital to be lent in loans at not less than one year. There was no provision about suspension or specie redemption.

At the next session, December 25, 1833, the Commercial and Railroad Bank at Vicksburg was chartered, because more banking facilities were needed; $4 millions capital; "identified and incorporated with the Clinton and Vicksburg Railroad Company," the charter to become null if the railroad was not built in six years; the bank to cease in thirty-two years; the note issue not to exceed three times the capital and money on deposit; it was to have branches; no provisions about suspension or specie redemption.

There was now a lull for two or three years. The Jackson and Brandon Railroad and Bridge Company was incorporated February 5, 1836, apparently without banking privileges, and the Mississippi and Alabama Railroad Company, February 9th. This latter company might issue notes for $5 and above, to an amount not exceeding twice the capital not expended on the railroad; one-third of the capital to be lent on loans for one year or more; the banking powers to cease in 1860. This company was known popularly as the Brandon Bank, the banking house being at Brandon. The Grand Gulf Railroad and Banking Company was chartered February 20th; one

section provides that this corporation "together with all other banking institutions in this State, shall at all times be obliged to redeem their notes in specie." If any one of them refuses to do so, the cashier must endorse on the note the date of refusal, under a penalty of $500, recoverable by the holder; the note so endorsed was to bear interest at twelve and one-half per cent. per annum, from the date of endorsement until paid. February 26th, the Commercial Bank of Columbus was incorporated with a capital of $1 million. On the same day the Mississippi Railroad Company was incorporated. Banking was not explicitly included in its functions, but it might issue bonds secured by mortgages, given by the stockholders on their own estates, of double value. On the following day, the Tombigbee Railroad Company and the Aberdeen and Pototoc Railroad Company were incorporated, both with banking privileges; and on the same day the Commercial and Railroad Bank of Vicksburg was authorized to add $2 millions to its capital, in order to build a railroad to some undefined place on the northern boundary of Madison county. On the same day also the Commercial Bank of Natchez was founded, with $2 millions capital. On the same day also the Yazoo Railroad Company was incorporated, but banking is not discernible in its powers.

The first proposition for the Union Bank of Mississippi was made in 1835.* It was imitated and borrowed with only a few petty variations from the Louisiana Union Bank. The act incorporating it was passed January 21, 1837; capital, $15.5 millions; subscriptions to be taken in each county; citizens and landowners alone to subscribe; the State to issue bonds to the bank, payable in four sections, in twelve, fifteen, eighteen, and twenty years, endorsable and negotiable by the bank, principal and interest to be paid by the bank; the stockholders to give mortgages to secure their subscriptions; the land, if already mortgaged, being received as security only for the residue after subtracting twice the existing mortgage; to last forty years; the Legislature to elect five directors out of thirteen; the stockholders, on subscribing, to pay $10 on each share in cash; three commissioners in each designated district to appraise the lands mortgaged for the stock; no notes under $10; all profits of the bank to accumulate until the first section of the State bonds is paid (twelve years); then any surplus, after paying these bonds, to be divided amongst the stockholders; then the profits to accumulate again until the second section of the State bonds should be payable, with a division of any surplus amongst the stockholders, and so on, but the State to have as a bonus one-tenth of the net gains of the bank; never to suspend under fifteen per cent. penalty; the parent board to make rules for the branches; the capital to be exempt from taxation; the bank might sell lands mortgaged to it for stock or loans and was to be a preferred creditor; the Governor to deliver the bonds *pro rata* as the subscriptions went on. The State was entitled to a loan of $200,000, and each stockholder was

* 25 Mississippi, 625.

entitled to a credit equal to one-half his shares for twenty-five years; that is, four per cent. to be paid annually on the principal, the notes being renewed annually. There were to be seven branches; two-thirds of the capital was to be lent on real estate, one-third on promissory notes; borrowers on mortgage were to pay one-eighth annually on their notes. The four last years of the charter period were to be employed in winding up the bank. After the bonds were issued by the State to the bank, and the bank was started, the $10 cash per share was to be paid back.

The Constitution of 1832 provided that no loan of money should ever be raised on the credit and faith of the State, unless the law should be passed by a majority of the members of each House, published for three months previous to the next regular election in three newspapers of the State, and re-passed by both Houses of the next following Legislature. The charter of the Union Bank was passed in the House, 47 to 7, and in the Senate, 11 to 8.

There was a called session of the Mississippi Legislature in May, 1837, at which a great number of banks, insurance companies, railroads, etc., were chartered just as the financial crisis occurred. April 28th, the Northern Bank of Mississippi was chartered until 1862; $2 millions capital; lowest note $5; if redemption refused, the cashier to endorse; twelve and one-half per cent. penalty; half the capital on loans for one year or more; must build a specified railroad within ten years, or forfeit the charter. Then followed charters every few days for the Citizens' Bank, the banks of Vicksburg, Granada, Port Gibson, and Lexington. May 11th, it was enacted that the chartered banks might issue post-notes to bear interest receivable for taxes, having from six to thirteen months to run; the interest was not to exceed five per cent., and the notes were to be loaned at not over nine per cent. If not redeemed when due, to be endorsed and bear twelve and one-half per cent. interest. The bank must receive them for debts to itself, whether they were matured or not; their amount not to exceed the capital; no State officer was to take the post-notes of any bank which had failed to pay any of its notes, at any time, in specie. The next day three Bank Commissioners were constituted to visit and examine the banks and moneyed corporations; they might proceed in chancery against erring corporations, and were to report annually to the Legislature, by which they were to be elected. Any three banks might call for an examination of a designated one.

The Mississippi Railroad Company was re-organized May 12th and chartered as a bank with full powers. In the case of Hayne *vs.* Beauchamp,* we learn that the bank operated a "simultaneous transaction" on the subscriptions; ten per cent. was due upon subscription, for which a note was given and discounted by the bank, and a check given to pay the installment at the same time. It was held that this did not constitute the person in question a subscriber to the stock, nor liable as such, since specie or

* 5 Smedes and Marshall, 515.

notes of specie-paying banks were alone receivable in payment of subscriptions,* but the note was binding for its amount, and was treated as a note for money borrowed, with which to pay the installment.

The Benton and Manchester Railroad and Banking Company was incorporated May 12th, the subscribers to the stock to mortgage their lands, and these mortgages to be made the security for bonds to be issued. On the following day, the Vicksburg Water Works and Banking Company and the Hernando Railroad and Banking Company were incorporated.

Having finished these labors they adjourned and were ready for the panic. It does not seem, however, to have made much impression on them before the next regular session. At that time the charter of the Union Bank was duly re-enacted, but, February 5, 1838, a supplementary charter was passed which made some very important changes in the organization of the institution. The State took $5 millions of stock and so changed its relation to the bank, becoming jointly liable and not simply lending bonds to it. The bonus to the State of one-tenth of the profits was stricken out, and also the provision that the State might have a loan from the bank of $200,000. There was no clause in the charter which explicitly granted the power to issue notes. This was only inferred from a provision that it might not issue any note under five dollars. It put on its post-notes a statement that they were issued upon a pledge of the faith of the State which was not true.†

The Paulding and Pontotoc Railroad Company was chartered February 16, 1838; mortgages for stock being made security for bonds, as in former cases; and it might issue notes for half its capital. On the same day an act was passed over a veto, suspending for eighteen months the penalty of twelve and one-half per cent. on post-notes, not paid on demand at maturity.

The amount of banking capital provided for in bank charters between 1833 and 1838 was $53.2 millions.

TENNESSEE.—The Bank of the State of Tennessee, No. III., was incorporated December 20, 1831; $2 millions capital; at Nashville, with one branch in East Tennessee and one in West Tennessee. It appears to have been intended that $500,000 should be subscribed by the State, and the Legislature was to appoint five directors out of fifteen. The public faith was pledged for the redemption of the notes and debts in proportion to the State stock. The old Bank of the State, No. II., was to pay to this one the $20,000 which had been subscribed to it by the State, and that sum was to be apportioned amongst the counties for schools in the manner provided in the act of January 11, 1830.

At a called session in 1832, the first steps taken seem to indicate trouble. The Bank of the State, No. II., was ordered to be wound up at once, and all the funds to be put in the Union Bank of Tennessee as soon as the latter

* 21 Wendell, 211. (1839.)

† 6 Howard, Miss., 627.

should start. That bank was incorporated October 18th; $3 millions capital; half by the State; to be paid by five per cent. bonds, at equal steps with the private subscription; the bonds to be payable in fifteen, twenty, twenty-five and thirty years; the Governor to appoint five directors; the State dividends to go to the school fund; no loans for more than a year; ten per cent. penalty for non-redemption; lowest note $5. It might issue notes payable at any bank of "respectable standing" in the United States; to be a State depository; never to issue more than double the capital. The charter of Bank of the State, No. III., was repealed, probably because the private subscriptions could not be obtained.

The cashier of the Nashville branch of the Bank of the United States wrote to Jaudon, October 21st,* that the distress for money in Tennessee had led to the charter of a new bank. "The law passed contrary to my calculation, and from the present scarcity of money is likely to become so great a favorite with the people at large as to fill the subscription for the purpose of getting it organized, and then, if subscribers cannot pay the second and other installments, the board of directors will, as I believe, follow up the former customs of this State on similar occasions, by discounting the stockholders' paper in some way or other, so as to get the bank in operation, when discounts will be granted with such a lavish hand as to fill every debtor's pockets with their notes. The sequel of the fifth year's operation of that bank, should it go into operation, will produce a state of things and of distress that none of its friends now dream of. My experience in the former local banks of this State enables me to foresee the consequences that will inevitably result from the operation of such a bank."

The Planters' Bank of Tennessee was chartered November 30, 1833, with $2 millions capital, on the same plan as the Union Bank; and the Farmers and Merchants' Bank of Memphis, November 27th; capital $600,000, on the same plan.

The Superintendent of Public Instruction was ordered, February 19, 1836, to wind up the loans, land claims, etc., of the Bank of the State, No. II., investing his balances in stock of the Planters' Bank for the interest of the school fund; but he is also ordered to redeem the notes of the Bank of the State. After the crisis came on, October 9, 1837, this order was revoked.

February 20, 1836, the Attorney-general was ordered to begin suit against the Union Bank for the bonus and dividends. The State had borrowed of the bank. Six per cent. certificates were to be given to it for this indebtedness. In a report of that bank October 3, 1837, it is said that the bank has changed the character of its notes and will no longer issue any but notes payable at its counter, because of the heavy run it had to endure in the previous spring by reason of its notes payable at New Orleans.

KENTUCKY.—The Louisville Bank of Kentucky was founded February 2, 1833; for twenty years; capital, $2 millions; lowest note, $5; notes dis-

* Documents Appended to Polk's Report, 1833, p. 151.

counted by it placed on the same footing as foreign bills of exchange; debts never to exceed twice the capital; twelve per cent. penalty for refusal or unreasonable delay to pay notes or deposits in specie, with forfeiture of charter; may begin when $200,000 paid in in specie and $300,000 in notes of the United States Bank; the State to have an option for five years, to take any part of 5,000 shares, and to have no other right than other stockholders; the bank not to lend on its own stock or on real estate.

The Bank of Kentucky was incorporated, with its seat at Louisville, February 22, 1834, for thirty years; capital, $5 millions; not more than six nor less than four branches; lowest note, $5; twelve per cent. penalty, as in the case of the Louisville Bank; the State to take 20,000 shares when 10,000 shares are privately subscribed; the State to appoint three out of eleven directors. The State scrip issued for the State subscription might be sold by the bank, which became liable, by endorsement, for the interest anywhere in the United States; but the State paid the interest into the bank. The section in all the bank charters about the obligation of the banks for the interest on the State scrip is very obscure. An act of March 3, 1842, shows that the Northern Bank of Kentucky was held bound to pay the interest on the State bonds in its capital. The bank was to redeem this scrip out of the dividends due to the State, paying over the residue to the State. The bank was to reserve the five per cent. on $1 million of scrip out of the dividend, and the surplus was to go to pay, as far as possible, for the second 10,000 shares, so that the dividends seemed to be appropriated twice.

The Northern Bank of Kentucky was incorporated February 20, 1835, for thirty years; capital, $3 millions; its seat at Lexington, with not less than three nor more than four branches; the State to take half the capital; the State dividends, over and above the charges on the scrip issued for its stock, were set apart for the interest on the internal improvement loans. Small notes were forbidden, February 28, 1835, after one year from that date. If received, they were not to discharge the debt. This was not to apply to the notes of the old Bank of Kentucky or of the Bank of the Commonwealth.

In 1838, a very earnest attempt was made to get a charter for the Southwestern Railroad Bank from Kentucky. The scheme was that North and South Carolina, Kentucky, and Tennessee should concurrently charter the Louisville, Cincinnati & Charleston Railroad, and the Southwestern Railroad Bank. Each State on State rights principles was to prescribe the action of the bank within its limits. The bank was to go into effect if three States consented to it, which they did; Kentucky alone rejected it. It passed the Senate by one majority and was lost in the House by a tie vote. Wickliffe, who was charged with the effort to carry the measure in Kentucky, explained that the Southwestern Railroad Bank was intended to negotiate the stock of the railroad in London and elsewhere. Two shares in the road go with one in the bank, so that the State or individual stockholder will receive through the bank a certain and immediate profit on one-third of the capital invested,

and a remote profit on the two-thirds which is to be laid out in constructing the road.*

The Southern Bank of Kentucky was chartered February 20, 1839, to accommodate the people south of Green River; for thirty years; capital, $2 millions; half by the State. The main features of the charter were like those above.

Governor Letcher of Kentucky, in his message of 1840, said: "The State derived great benefit from the branches of the late Bank of the United States. They furnished the people with a sound currency, good at home and good abroad, and afforded every necessary facility to the commerce, business, and enterprise of the community. When it was unfortunately decreed that the United States Bank was to expire without a renewal of its charter and without a substitute, Kentucky, being compelled by necessity, went slowly and hesitatingly into the creation of local banks."†

OHIO.—In 1833 and 1834, bank charters were multiplied in Ohio. February 12, 1834, the Ohio Life and Trust Company was chartered with $2 millions capital; permission to issue notes until 1843, for not more than twice the amount of deposits allowed to remain for not less than a year, and for not more than half the paid-up capital invested in loans on real estate; the charter to be forfeited if it should suspend for more than thirty days.

At the session of 1835-6 no banks were chartered.

The Auditor was directed, March 14, 1836, to draw on the banks for 20 per cent. of their dividends as a tax; but if any bank should give notice to the Auditor, before July 4th, that it renounced the right to issue notes under $3 after that date, and those under $5 after July 4, 1837, the tax on such bank should be only five per cent. of its dividends. Most of the banks accepted this law.

A great bank was set up by the Mormons, in 1836, at Kirtland, Ohio. No property was bound for the issue, which was very large. It had no coin and nobody was responsible for the notes. Before the word "bank," in big letters was the word "anti-" in small letters, and after "bank," "ing" in small letters. A Pittsburgh banker sent some notes to the bank for redemption. Sydney Rigdon, the president, replied that he had issued those notes to circulate for the convenience of the people; to redeem them would defeat the purpose. The bank stopped payment February 11, 1837, having $40,000 outstanding. This compelled the Mormons to leave that neighborhood.‡

INDIANA was without a bank from 1820 to 1834. January 28th of the latter year, a Bank of the State with ten branches was incorporated, to last until 1859; ten districts were to be formed with one branch in each; two more might later be added. The office of the bank was to be in Indianapolis, where the directors were to meet at least once in three months. They were

* See page 239. † See page 187.

‡ Stenhouse; Rock Mountain Saints; Boston "Courier," February 6, 1837; Ford; Illinois, 250.

a Board of Managers only for the affiliated institutions which constituted the Bank of the State. They had no institution doing business under their immediate management. The branch at Indianapolis was subject to them only in the same way in which other branches were. The bank was never to suspend under twelve per cent. penalty; all the branches were responsible for each other; suits were to be against the State Bank; no stay of execution on judgments against it; it might receive federal deposits; lowest denomination $5, and, the Legislature might forbid notes for $10; the Legislature to elect a president for five years, and four directors, all removable by joint resolution; each branch to elect annually one member of the Central Board; the Central Board to control the branches, examine and inspect them, and distribute the capital. If any branch becomes insolvent or disobedient or acts against the interest of the whole or of the State, the Central Board may appoint a receiver for it. All branches must make up a deficiency in liquidating any one. The Central Board to have charge of plates and paper; the stockholders of the branches to elect seven directors and the Central Board to appoint three for each branch. The capital was to be $1.6 millions, one half by the State; the first installment to be paid in specie; the other two at intervals of a year each; each resident stockholder had the right to have these installments paid for him by the State of Indiana, in specie, on giving security to pay it within nineteen years, with interest at six per cent., consisting of a mortgage on land of double the value. The dividends on the stock thus paid for by the State, on behalf of the stockholders, were to go to the State in payment of the interest; but if the dividends left a deficiency, the stockholder must pay it. No loans were to be made out of the bank to pay the subscription. A State loan of $1.3 millions was provided for to carry out this act, and the dividends of the bank and the interest on the loans to the stockholders were constituted a sinking fund. The banking powers were to cease in 1857, and the State might then found a new bank.

If a stockholder in this bank subscribed 100 shares ($5,000), he paid $1,875 money, and the State paid for him the remainder, he giving a mortgage at six per cent. The State got the money at five per cent. in London. As the dividend exceeded six per cent., the debt was extinguished in a few years.*

It appears that the banks could not be established in all the districts as planned, for, in 1836, they were abolished where no bank had been established, although the thirteenth branch was then constituted.

ILLINOIS.—February 12, 1835, a Bank of the State of Illinois was created, to last until 1860; $1.5 millions capital; the State to take $100,000. The bill passed the House by a majority of 1. On the same day the charter of the Bank of Illinois, of 1816, was extended for twenty years. State Bank was a name of ill omen in Illinois, and there was great prejudice against it, but the rising tide of land speculation and the mania for internal improvements,

* McCulloch; Men and Measures, 114.

which was connected with it, led to the creation of these banks. It was easy at the time to obtain subscriptions in the East for bank stock in these distant States.

The reader may ask: What could a bank be expected to do for public improvements? It might be compelled to pay a bonus which could be appropriated to public works. That would be a mulct or loss once for all. If bonds were to be sold, it might act as financial agent to market them. If it bought them itself, it would lock up its capital and become a canal or railroad company, not a bank. It might make temporary advances before stocks were sold or taxes collected; but if the bank was to stay sound, these must run but a short time and payment must be strictly secured. If banks were used otherwise than in these limits, they and the improvements must all fail together. This is what happened. The Bank of the State engaged at once in a supply of capital for speculative operations at Alton. Ford thinks that it must have lost $1 million and was nearly insolvent before the end of the second year of its existence. It was regarded as a whig bank and could not get a share in the public deposits.

The Bank of Illinois was authorized February 28, 1837, to borrow $250,000 and lend it on mortgages, having not more than five years to run, at not more than ten per cent. March 2d, the Governor was ordered to subscribe $100,000 to the stock of that bank, on behalf of the State.

The internal improvement system had been undertaken on a most extravagant scale in 1836. March 4, 1837, an act was passed to increase the capital stock of certain banks and to provide means to pay the interest on the loan authorized by the act to establish internal improvements. The capital of the Bank of the State was to be increased $2 millions, and that of the Bank of Illinois, $1.4 millions, if they consent. The State was to contract a loan of $3 millions, at six per cent., payable in 1860, with which to take all the increase in the capital of the Bank of the State, and $1 million of the increase in the capital of the Bank of Illinois; $400,000 of the latter were to be left for private subscription; the dividends on the State stock in the banks were to be applied first to pay the interest on the loan here provided for, and the remainder to pay interest on the internal improvement loan. The money obtained on loans was to be deposited in the banks, at interest, until used.

It was believed that the State bonds would sell for 110 and that the dividends on the bank stock would pay the interest and sinking fund on them. It was not possible to sell them at 100. The banks took them.*

* Ford, 190.

CHAPTER XIII.—CONTINUED.

§ 3.—*The Inflation of 1835 and 1836.*

After the commercial crisis of 1837 broke out, a great deal of writing and talking was done in this country in respect to banking and currency. The disputants all traced the trouble to either one or other of the acts of Jackson's administration; or of the opposition; or of the United States Bank; or to the lack of a United States Bank. Of course party spirit and the desire to win party advantages had a very large share in all these arguments. It is very doubtful, however, if any or all of these events and proceedings had more than a contributory share in producing the result. One of the most important facts, to which leading influence must be attributed, is the great and really irrational importance which was attached by Europeans to the extinguishment of the debt of the United States, and their exaggerated willingness, on that account, to lend their capital in America. There was no removal of the deposits in England, and no lack of a national bank in France. The whole civilized world shared in the convulsion. It seems to have been, when properly regarded, a revulsion in the midst of a great expansion of industrial power, which expansion produced modifications of the industrial organization which could not well take place without some greater or lesser catastrophes.

In England, after 1825, the factory system, which had been growing up for fifty years, had reached a stage of completeness. There was a definite extension in the application of power and machinery to the textile industries. After 1830 began the construction of railroads. The multiplication of joint stock banks, upon which the whole subsequent mischief was charged by a great many English writers, was incidental to this. At that time the banking system of England was carried on very much as that of America was. There were constant expansions and contractions of the circulation, and the writers on financial subjects directed their attention to these fluctuations as the controlling causes of the phenomena which were noticed. There was very general dissatisfaction with the management of the Bank of England, and

a strong conviction was felt by the best students of finance that the rules by which it was governed were not adequate or correct. Accordingly, when the bank charter was renewed, in 1832, power was reserved to modify it after 1840. The general principle of management for the Bank, as it was stated to the Committee of 1832, by Horsley Palmer, was, when the exchange was at par, "to invest and retain in securities bearing interest a given proportion of the deposits, and the value received for the notes in circulation, the remainder being held in coin and bullion." The proportion was two-thirds securities and one-third bullion. In the flood of pamphlets which was produced in the discussion of the following years, this rule was shown to be nugatory. Many interesting and important points in the doctrines of banking and currency were developed in this discussion, and the doctrines were established upon which the Bank act of 1844 was constructed. Among the most important of these doctrines for our present purpose, we may notice the following: An inflation or contraction of the currency does not have that prompt and direct effect upon prices and enterprise which they are popularly supposed to have. We may turn, therefore, with greater confidence to the great extension of production, and the great changes in the industrial organization as real causes.

The increased power in production, with the attendant movements of commerce, stimulated enterprise, or as it is commonly called, speculation. This new impulse was felt in every direction. It constituted a great demand for capital, and it went on inevitably to produce aberrations and extravagances. It also produced a new demand for raw materials, which in the next stage took the shape of new enterprises in opening land and mines.

The most important of all these effects for the United States was a new demand for cotton. Cotton was at that time the commanding article in the foreign trade of the United States. In value it constituted from 35 to 55 per cent. of the exports of the United States, and therefore might be regarded as the chief thing with which we paid for our imports. It was a natural monopoly. Its value rose steadily in spite of a very rapid increase in production. Inasmuch as the facts in this connection will demand our attention frequently as we pursue the history of this period, the following statistics of the production, in million pounds, and of the annual average price, in cents, will be found useful for reference.*

Year.	Crop.	Price.	Year.	Crop.	Price.
1820	160 million pounds.	17	1837-8	720 million pounds.	14
1830-1	350 " "	9	1838-9	545 " "	10
1833-4	445 " "	11	1839-40	870 " "	14
1834-5	460 " "	12	1840-1	654 " "	8
1835-6	550 " "	16	1841-2	673 " "	10
1836-7	570 " "	16	1842-3	942 " "	8

*McHenry; The Cotton Trade, 107.

This rise in value of the leading staple product of the country had the most important effects politically as well as industrially and financially. It poured a stream of wealth into the cotton States. New cotton lands were opened and cultivated. Slaves, tools, machinery, and all supplies were in great demand, and for the most part, all had to be bought upon credit. Of course the rate of interest was very high, for there was no free capital in the cotton States. The next consequence was a multiplication of banks, either as institutions for drawing the capital from elsewhere, or as paper-money machines under the constant delusion which attends such circumstances. The great commercial and financial centers of the South, New Orleans, Mobile, Savannah, and Charleston, enjoyed a period of unprecedented prosperity.

The effect of the arbitrary redistributions of currency and capital which went on from 1833 to 1837 were to throw the domestic exchanges into the utmost confusion. "Even the monstrous anomaly was presented of bills being sold at a loss in Philadelphia upon New Orleans while at New Orleans bills on Philadelphia were also sold at a loss." The rates of exchange were doubled and the banks made great profits. This was what drew such large amounts of northern and eastern capital into the banks of the Southwest.*

The Erie canal had proved a relative success, and had certainly been very useful in opening up access to the western country. It was imitated first in Pennsylvania, then in Maryland, and later in Ohio, Indiana, and Illinois. The southern and southwestern States also adopted plans of internal improvement. For all these things capital was necessary, and capital was just what was wanting. State bonds were issued in order to obtain this capital in the East and in Europe. They met with a sale which was amazing, considering the basis on which they rested. As long as this lasted there was great apparent prosperity in all the improvement States. Wages were raised to such an extent that labor was drawn away from the cultivation of the land. The historian of Illinois says that in 1837 nothing was exported from that State; everything from abroad was paid for by the borrowed money expended in the State.†

The residents of the cities shared in this prosperity through the operations of commerce and finance, and the distribution of the new capital to the manufacturing industries. The valuation of real estate advanced in all the cities with great rapidity. The valuation of real and personal estate in New York city and county was, in 1830, $125 millions; in 1836, it was $309 millions. It did not reach $300 millions again until 1851.

The people of the western improvement States had become convinced that without any taxation or other annoyance to themselves they were about to see the land around them very greatly increased in value; and every one was eager to get possession of as much of it as he could possibly acquire. In 1836, owing to the great land and town lot speculation which

* 1 Raguet's Register, 66.

† Ford's Illinois, 196.

had then reached Illinois, it was supposed that all the towns of any note would soon become cities, and that other uninhabited towns, laid out only for speculation, would immediately become thriving, populous and wealthy, and the town-lot market would be established. "Chicago had been for some time only one great market town" for town lots.* The eastern people, however, were likewise led to adopt this notion of the prospective value of the new land. The sales of public land had been from $2 millions to $3 millions a year. In 1833 they rose to $4.9 millions; in 1834, $6 millions; in 1835, $15.9 millions; in 1836, $25.1 millions. They fell, in 1837, to $7 millions; in 1838, $4.3 millions; 1839, $6.4 millions; and 1840, $2.7 millions. These sales were made in 1835 and 1836 for the notes of the banks of the western States.

In the President's message of 1836 the operation was described as follows: "The banks loaned out their notes to speculators, they were paid to the receivers, and immediately returned to the banks to be lent out again and again, being mere instruments to transfer to speculators the most valuable public lands, and pay the government by a credit on the books of the banks. Those credits on the books of some of the western banks, usually called deposits, were greatly beyond their immediate means of payment, and were rapidly increasing. Indeed each speculation furnished means for another; for, no sooner had one individual or company paid in the notes, than they were immediately lent to another for a like purpose, and the banks were extending their business and their issues so largely as to alarm considerate men, and rendered it doubtful whether these bank credits, if permitted to accumulate, would ultimately be of the least value to the government."

On the 11th of July, 1836, the Secretary of the Treasury issued an order, afterwards known as the "Specie Circular," in the name of the President, ordering the receivers to accept nothing in payment of public lands but gold and silver, or, in proper cases, Virginia scrip. The chief motive was declared to be "to discourage the ruinous extension of bank issues and bank credit." This order was denounced by all those who were interested in the prevailing inflation and by all the believers in the "credit system."

It is well worthy of notice that the whole of the great surplus which was at this time piled up in the treasury, that is, in the deposit banks, could be accounted for by the increased revenue from the sale of public lands. The outcry against the circular was so great that, in spite of the great administration majority, a bill was passed to supersede it. In form it specified what currency might be received for payments to the United States, but it included bank notes, provided that they were payable and paid in specie, and that the banks whose notes were taken issued no notes under five, later under ten, and later still under twenty dollars. These restrictions were idle because every one of the banks in question satisfied them, and they furnished no guarantee against the evils complained of. Jackson filed this bill

* Ford, 181.

unsigned, in the Secretary of State's office, at eleven and three-quarters P. M., March 3, 1837. As he had not had it ten days it was not a law. A similar circular had heen issued in 1828; as there was then no active speculation, very little notice was taken of it.*

In April, 1835, a treasury circular forbade the payment out of the treasury of any notes under five dollars after September 30, 1835. February 22, 1836, another circular forbade the payment of any notes out of the treasury of a less denomination than ten dollars after May 1st. Congress superseded these circulars by an act of April 14, 1836, that no bank note under ten dollars should be paid out after that date, and that after March 3, 1837, no note under twenty dollars should be either given or taken by the United States Treasury or Post Office Department, and all notes given or taken must be payable in specie on the spot. This act was passed without a contest and with great unanimity. In 1835, the following States allowed no notes under five dollars: Pennsylvania, Maryland, Virginia, Georgia, Tennessee, Louisiana, North Carolina, Indiana, Kentucky, Maine, New York, New Jersey, and Alabama. Connecticut had none under three dollars. In Mississippi and Illinois, "it is understood that bills under five dollars have not recently been issued." Missouri had no bank of issue. The specie in the country was estimated at sixty-four millions.†

From the time that the State banks began to be used as the depositories of the public money, the amount which they held went on steadily increasing. On the 1st of June, 1836, there were about eighty of these banks, with a capital of $46.4 millions. They held public money to the amount of $41 millions. Their loans were $71.2 millions, and domestic exchange, $37 1 millions. Their circulation was $27.9 millions, their private deposits $16 millions, and their specie $10.4 millions.

Jackson had himself proposed in his first message that, after the public debt was paid, the surplus revenue of the federal government should be distributed to the States. Clay and Calhoun, however, took up this project, the former especially aiming to distribute the proceeds of the public lands as such, or to regard the surplus revenue as due to the sales of lands. At the session of 1835-36, Clay introduced a bill to distribute the net proceeds of the lands after taking out ten per cent. for the ten new States. Calhoun had constitutional scruples about distribution, and proposed an amendment to the Constitution to authorize it. He also introduced a bill to regulate the public deposits, and there was another bill for distributing the surplus revenue. The land bill passed the Senate but was tabled in the House. The distribution bill and the deposit bill were consolidated into one, and passed by the Senate, June 17th, 38 to 6. On the 20th of June, in the House, an effort was made to divide the bill so as to separate the regulation of the deposits from the distribution, but the effort failed. As the bill then stood, the surplus was to be divided as a gift to the States. This could not pass the House. It was

* 7 Adams's Diary, 427.

† Treasury Report, 1835.

changed into a plan for "depositing" it with them, subject to recall. In this shape the bill passed, 155 to 38. It provided, at the same time, for the regulation of the deposit banks, for which up to this time there had been no law, in respect to the reception and use of the public money in the future, and also for the distribution of the great treasury surplus then in their hands. There was to be in each State a deposit bank, if a bank could be found which would fulfill the prescribed conditions. Each of these banks was to redeem all its notes in specie and to issue no notes for less than five dollars after July 4, 1836. The other provisions of law as to the bank notes receivable and payable, which already existed, were repeated. If the public deposits in any bank should ever exceed one-fourth of the capital in the bank, it was to pay two per cent. on the excess; and it was to give collateral security for the deposit, if the Secretary called for it. No transfers were to be made from bank to bank by the Secretary, except as the convenience of the treasury should require, and then he was to transfer from one deposit bank to the next nearest, and so on. This was intended to prevent him from redistributing the deposits arbitrarily or by favoritism, and it revoked entirely that power to arbitrate between banks which the Secretaries had gradually assumed by advancing precedents from Hamilton down.*

All the surplus money in the treasury, January 1, 1837, over $5 millions was to be deposited with the States, in the proportion of their membership in the electoral college, in four installments,—January, April, July, and October, 1837. The States were to give for these deposits negotiable certificates of deposit, payable to the Secretary or his assigns, on demand. If the Secretary should negotiate any certificate, it was to bear five per cent. interest from the date of assignment; while not assigned, the certificates bore no interest. This large sum of money must therefore be withdrawn from the loans in which the banks had invested it, within a year, and be paid over to the States, most of which were eager to get and use it in their internal improvements.

One of the earliest forms of speculative mania was that in lumber lands in Maine. This culminated in 1834. The center of it was at Bangor, and the town was so crowded with operators that scarcely a shed could be found for shelter.†

Some warning voices were raised early in the progress of the system of inflation. For instance, in the spring of 1835: "A crisis is approaching and is near at hand, to which the panic and pressure of last year will be trifling in comparison. There is a larger sum of money, or rather a larger amount of credit, loaned out in this community, at the present time, than there ever was before. Notwithstanding this extraordinary inflation of the currency the banks continue to discount every note which bears the semblance of responsibility, and as the 'Journal of Commerce' observes, 'everything is dear but money.'"‡ In December, 1835, the money market at Philadelphia

* See pages 33, 35, 102. † Martin; Boston Stock Market, 59. ‡ New York "Evening Post" in 43 Niles, 168.

was very stringent; some political anxiety with reference to relations with France being added to the commercial difficulties. In January Bicknell quoted the rate for capital two per cent. per month and advancing. In the spring of 1836, there was a very great stringency in the money market of the North and East, but there were everywhere great signs of prosperity and business enthusiasm.* Sterling exchange was at 105, par 109.6. At the same time all prices were greatly inflated. The imports were extraordinarily large and included even wheat and flour, as they had in the previous year. The crops had, indeed, not been good, but the whole anomalous condition of things rested upon the fact that a great debt was being contracted in Europe, which depressed the exchange and protected the whole system of inflation here. Everywhere there was a scarcity of money, and a demand for more banks to furnish a supply. One per cent. a month was not considered a high rate in any of the great cities. In April the best commercial paper was quoted at New York at 30 per cent. to 40 per cent. per annum; second rate, at a-half of one per cent. per day. "There is an awful pressure for money in most of the cities."†

In May, the "Globe" called on the deposit banks to contract loans, demand bank balances, and "check the raging mania for wild speculation and over-trading." Governor Marcy, of New York, devoted a large part of his message to this subject. "The passion for speculation prevails to an extent heretofore unknown, not only among capitalists, but among merchants and traders. The funds of these capitalists have been withdrawn to some extent from situations in which they afforded accommodation to business men, and they have consequently been obliged to press upon the banks to supply this deficiency in their means. Merchants and others have abstracted from their business a portion of their capitals, and devoted it to speculations in stocks and lands; and have then resorted to the banks for increased accommodations. To these causes I ascribe most of the embarrassment now felt for the want of sufficient bank facilities to conduct successfully our ordinary business concerns. The proposed remedy, judging from the applications, is to double the present number of banks and nearly to treble the amount of banking capital. Before you apply this remedy, in whole or in part, you ought to be well satisfied that it will remove the difficulty, and that the use of it will not leave us in a worse condition than we are at present."‡

In June, after the distribution law was passed, the money market became still more stringent, because the better banks were preparing to pay the deposits which they held. The Secretary of the Treasury had been directed to "equalize" the distribution of the deposits between the States, and he tried to carry out this delicate and difficult task, connecting it at the same time with an anticipation of the distribution which was to be made in the following year. The law was extremely crude, and seemed to proceed from

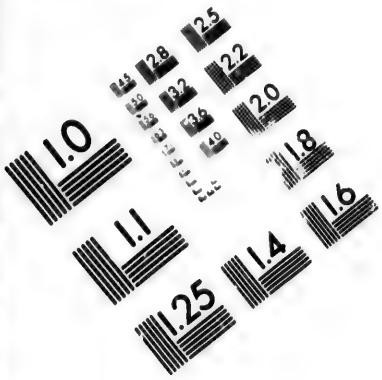
* 50 Niles, 113. † 50 Niles, 185, 134. ‡ 2 Hammond, 450.

a notion that the "redistribution" was as simple an operation as carrying bags of money from one room to another. A supplementary act was necessary to put the enterprise in any practicable shape. In the report of the Secretary for 1836 he showed how the undertaking had caused him to be importuned by Congressmen seeking favors for their States or their banks. He had redistributed about $40 millions, withdrawing $18 millions from the States in which the banks had more than their proportionate share. In the last six months of 1836, $22 millions more had been paid in, chiefly where there was an excess before, and this also had been redistributed. Biddle, in a public letter to Adams, November 11, criticized mercilessly these proceedings. Indeed we find it very difficult to understand what was done. The surpluses were in the great cities of the East. The deficiencies (according to the way of looking at the matter) were west of the Alleghanies. But, if it was proposed to transfer any money from the former to the latter, the latter would at once say: We do not want money sent to us from there. If we had any money to spare we would send it there. Give us rather eastern exchange.—This was the point of Biddle's criticism, and no one was in a better position than he to understand the ignorant blundering of the process which was going on. His mind at once ran over those refined and skillful operations by which he would have made such a redistribution if he had been called on to do it. Even in September, 1836, the local currency at New Orleans was depreciated and the banks had to unite to import specie.*

In the six months before the suspension of 1837, although the amount of the currency was greater than it had ever been before in the United States, yet the scarcity of money was so great that it commanded from one per cent. to three per cent. per month.†

* Treasury Report, January 8, 1838, page 651.

† Raguet; Currency and Banking, 139.



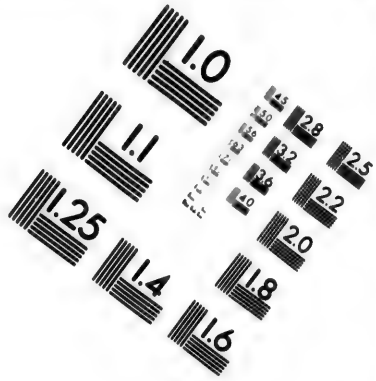
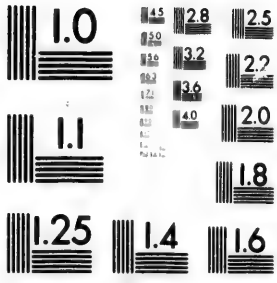
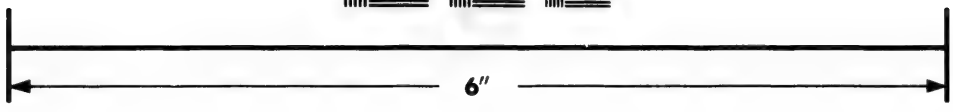
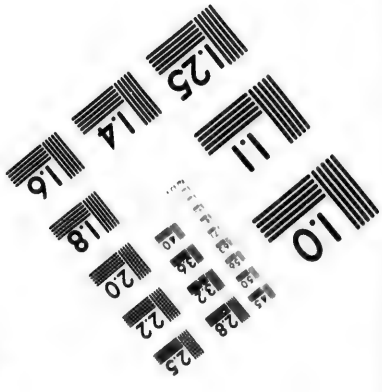


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CHAPTER XIV.

The Financial Revulsion; 1837 to 1842.

§ 1, *1837. The Suspension of Specie Payments. The United States Bank of Pennsylvania in the Crisis. Its Cotton Operations. The Federal Treasury in the Crisis.*

THE inflation in England reached a crisis in the course of 1836. In October, there was a run on most of the Irish banks, which proved fatal a month later to the Agricultural Bank, a great joint-stock association established about two years before, and having about thirty branches. The Northern and Central Bank of Manchester was compelled to apply to the Bank of England for assistance. It was only about two years old and had forty branches. The Bank of England, fearing that a catastrophe to this bank might occasion a panic in Lancashire, made large advances to it.* In the advances that were made to the discount houses to rediscount commercial paper, a great mass of bills was uncovered which had been produced by bill-kiting between six houses in London and one in Liverpool, whereby some £15 millions or £16 millions sterling had been advanced to Americans by banks whose total means were not one-sixth of that amount. The paper of some of these banks was rejected by the agency of the Bank of England at Liverpool, and three of them failed in March, 1837. On account, however, of the ramifications of their transactions, the Bank of England was obliged to carry them until their affairs could be liquidated. Their names were Wilson, Wildes, and Wiggins, and they became famous as the three W's. These banks gave open credits to persons who went out to all parts of the globe to buy products. The agent of the bank drew a bill, the proceeds of which were to be invested in coffee, sugar, and other commodities, which were to

* Edinburgh Review, 1837; attributed to McCulloch.

be shipped to Europe subject to the order of the banking house for reimbursement. Many of these cargoes, instead of being sent to Europe, were sent to the United States, and for various reasons the returns upon them were delayed or were lost. The amount of credits which these houses had extended in the United States was estimated, toward the end of 1836, at £20 millions; but they had been reduced during the winter to the sum above named, or, as other authorities stated, to about £12 millions. At the same time the best authorities estimated the amount of American stocks held in England at about £20 millions sterling. There was, therefore, in March quite a well-defined commercial crisis in London. The policy of the Bank of England in sustaining the three W's was much disputed, but the "Edinburgh Review" said that if the bank had refused to take their paper, "bills to the amount of from £8 millions to £12 millions would have instantly ceased to be negotiable, and it is all but certain that the shock which such an event would have given to credit would have produced an extent of bankruptcy and ruin to be paralleled only by what followed the breaking up of the Mississippi scheme in France."

In New York, in January, several of the banks refused to receive on deposit checks on other banks. In the same month the Board of Trade of New York memorialized Congress in regard to the deranged state of the currency and exchanges, and asked their interposition to remedy it. They urged that another national bank should be chartered, particularly for the reason that it could regulate the local banks. "In short, such an establishment has existed and is familiar to the habits of the country, and your memorialists desire nothing better than to return to that system under which the commerce and currency of our country so long prospered." It was very generally agreed on all sides that the currency was excessive and in great disorder.

After the 1st of January, the price of cotton fell four or five cents a pound in England, and during many months of the year, 1837, the price ranged four cents lower than in 1836. This was a fall of 30 per cent. or 40 per cent., and its effect upon the persons who had taken up cotton lands on credit, expecting a maintenance of the old price, was disastrous. It was not strange, therefore, that the first failures occurred at New Orleans. They happened on the 4th of March, so that Gen. Jackson left to his successor the task of reaping all the harvest which he had sown by his experiments of the last eight years. The first failure was that of Hermann, Briggs & Co., cotton factors, who had made advances to the cotton planters which the crop would not repay. Their correspondents, J. L. and S. Josephs & Co., of New York, failed as soon as the news reached New York. Six months later, however, their estate was said to show surplus assets for more than half a million of dollars.*

It will therefore be seen that this revulsion came upon the commercial

* N. Y. "Journal of Commerce," October 9, 1837.

centers of this country from two sides at once. The expansion in England had reached its limit and there was a reaction with a decline in demand for cotton. With the fall in the price of cotton, the whole cotton producing region was prostrated and could not pay for the supplies it had drawn from the Northeast. At the same time the credit which had been enjoyed in England by northern merchants and bankers was lost and payment was demanded. This overthrew the "credit system" here, and everything which depended on it. The latter revulsion fell upon the commercial and financial centers directly. Some writers on the events laid stress upon one of these sets of circumstances; others on the other.*

During the month of March the failures followed rapidly. On the 28th a committee of New York bankers turned to Biddle for help. He went to New York, where an agreement was made that the New York banks should increase their discounts $1.5 millions; that the Bank of the United States should issue bonds payable in London for $5 millions and send specie to the amount of $1 million; the Manhattan Company was to issue bonds, half payable here and half in London, for $2 millions; the Bank of America was to draw on Rothschild for $200,000 and the Girard Bank to issue bonds payable in London for $500,000 and the Morris canal for $1 million.† These bonds were sold for the bills receivable of the merchants at 112 and a half, and were sold by the merchants for current paper at 109, specie being at seven per cent. premium. Exchange was at 111 and a quarter or 112. The shares of the Bank were at 119 or 120. The bonds were made payable at the Barings. Biddle made the reservation that he must submit the exportation of specie to his Board of Directors.

Issuing bonds under such circumstances is a transaction which may have very different phases and significance. It may be that a great and strong institution puts its credit in the place of that of a solvent debtor who can give proper security to the Bank near at hand which he could not give to his creditor at a distance. Under other circumstances a weak and rotten bank issues post-notes to insolvent debtors, pretendedly for their relief, but it is really making use of their distress to borrow from them, or to borrow elsewhere on their security, thus driving them down to lower depths of bankruptcy. In the case now before us the Bank of the United States was supposed to be acting on the former principle. This was only partly true, and in the next two years that Bank gradually went over to the second use of post-notes. The great banks of the Southwest fully illustrated the second use of these instruments.

The Bank held a great amount of securities which were not immediately available and others which had fallen in value. It did not want to sell them. Hence, while borrowing by its post-notes, it was speculating in these securities. Although its margin on the bills receivable which it had taken from the merchants was wide, yet it really took a risk on the liquidation of

* See Appleton; Currency, 1841.

† 52 Niles, 81.

the debt owed by Americans in England. When it began to buy cotton it engaged in a gigantic speculation in that staple, embracing the whole crop. These hazards all went against it more or less, and all became more and more complicated.

In April the bonds of the Bank of the United States were selling at one per cent. per month discount, and those of the Manhattan Bank at one and a-half per cent. The New York banks would not discount southern and western paper. It was estimated that the southerners did not pay over five cents on the dollar of what they owed. From the failure of Josephs to April 8th, there were ninety-eight failures at New York, with liabilities of $60.5 millions. At a meeting of the bankers it was proposed to petition the Legislature for permission to suspend, but the proposition met with no favor.*

The whole cotton region, however, seemed to be prostrated. A correspondent wrote from Charleston: "The credit system, the sure foundation of our prosperity, is abandoned. Four, five, six, and even ten per cent. a month has been paid by those requiring funds to sustain their credit."† The failure of the bank of Yeatman, Woods & Co., of Nashville, was a great calamity to that region. "Their house occupied a very high ground in the confidence of millions of people. The result will be ruinous in Tennessee and Kentucky to the poor. Their notes make up almost one-third of the circulation in Tennessee."‡

At New Orleans all but four or five of the principal cotton factors had failed. The planters depended on them for the advances by which they made their improvements and bought their supplies in anticipation of the crop. A correspondent, in April, said: "It can no longer be concealed that the commercial community of New Orleans is altogether in a complete state of bankruptcy or suspension. * * * One-fourth of our bank directors have become insolvent or suspended payment, there being now but four or five large commission establishments left as the pillars of the once prosperous commerce of this city. * * * Including the responsibilities of the cotton planters, the amount may be $100 millions; but taking into consideration the amount due on land or real estate speculation, the actual indebtedness of New Orleans may be estimated at $180 millions."§ A New Orleans newspaper declared that "the monopoly of the cotton staple has fallen by its own weight. There will not be a house left to tell the tale." It expressed the oft-repeated but as yet never-fulfilled hope that the rising generation would profit by the lesson.‖ At the same time a Mobile newspaper said: "There is a little trade to be seen going on here and there, but it is mournful even to look upon that, as it leads to comparison. Where nine-tenths of the merchants of a city, which until recently flourished and prospered beyond all others of its population, have suspended payment, it is enough to despond the stoutest heart."

* 52 Niles, 97, 100. † Ibid, 114. ‡ 1 Raguet's Register, 76.
§ Ibid, 130. ‖ Ibid, 161.

At a meeting in that city, April 22d, a review of the situation was presented in which occurred the following passage: "The fact of the indebtedness of the State having been adverted to, the question naturally suggests itself, How does this arise? The answer is plain and obvious. Such has been the productiveness of the State for several years past, and so large the returns of slave labor, that the purchases of that species of property from other States, since 1818, have, it is believed, not fallen short of $10 millions annually, while the average value of our exports has probably not exceeded $16 millions; thus leaving an amount for other expenditures entirely inadequate to meet them, and this will be the more evident when it is considered how large an amount has been expended, both in the interior and in this city, in making improvements."*

The North and East had made great profits by selling goods to these cotton planters on long credit. When the revulsion came they were creditors for large advances made in the confidence of the continued prosperity of the planters. All sections therefore had a great stake in the market for cotton.

After the movement of revulsion began, the notes issued by the southwestern banks on discounts were remitted north and east by way of payment.† The accumulation of them there becomes a feature of the situation which we meet with in its consequences again and again.

In the New York Legislature it was proposed, in April, that the State should lend to the banks $3.5 millions five per cent. bonds, the issue of which had been authorized to pay for canals. The banks were to sell them in England and pay the State in such installments as were required for the canal expenditures. This plan was not actually carried out, although it was adopted, because some further legislation was necessary and the banks suspended before it could be obtained.‡

At a public meeting at New York, April 25th, resolutions were adopted declaring that the trouble was due to presidential meddling with business and currency; to the destruction of the national bank; to the attempt to substitute a metallic currency; and to the specie circular. A committee of fifty was appointed to go to Washington and ask the President to withdraw the specie circular. Biddle, being in Washington at this time, called upon the President in order to give him a chance to talk about the financial situation; but Van Buren did not seize the opportunity.§

Early in May three Buffalo banks were enjoined by the Bank Commissioners, and the Comptroller gave notice that the State would redeem their notes. Buffalo had suffered very much the year before by the failure of Rathbone, who had $1.5 millions forged paper out. May 3d, the loco focos held another of the meetings which they were in the habit of holding in the park at New York City, at which they adopted an "Address of the Producing Classes of the City of New York, friendly to the Policy of substitu-

* Ibid, 115. † Report of the Planters' Bank of Tennessee, October 8, 1837.
‡ 3 Gallatin's Writings, 396. § 52 Niles, 146.

ting a Specie Currency for a Promise Currency, to the People of the United States." This meeting encouraged the run on the banks, which increased during the early days of May.

On the 8th, a meeting was held to hear the report of the committee which had been sent to Washington. They had read to the President an elaborate statement of the calamities of the last three months, and had stated to him their opinion that it was all due to the removal of the deposits and the specie circular. They had asked him to call an extra session of Congress; to suspend the specie circular; and to defer suits on duty bonds. He replied that he would inquire into the possibility of deferring the suits; that he would not suspend the specie circular; and that he could not call Congress together because many of the Representatives were not elected. The meeting, upon hearing this report, passed resolutions reiterating their view of the political mistakes of the last administration, which had caused the trouble. Some months later the delegates to the Bank Convention summed up more justly the causes of suspension, leaving out the chief alleged political causes: "The simultaneous withdrawing of the large public deposits, and of excessive foreign credits, combined with the great and unexpected fall in the price of the principle articles of our exports, with an import of corn and breadstuffs such as had never before occurred, and with the consequent inability of the country, particularly of the southwestern States, to make the usual and expected remittances, did, at one and the same time, fall principally and necessarily on the greatest commercial emporium of the Union."*

On the 8th of May the Dry Dock Bank failed. On the 10th, the New York City banks all suspended. There were fears of an outbreak, especially on account of the inflammatory harangues by which the people had been excited at the loco foco meetings. These harangues had consisted of denunciations of the banks, which were only too well deserved, and of complaints about the bank note currency, which were very just; but they had run on also into anarchistic doctrines about property and vested rights. Another subject of their complaint, which was by no means without foundation, was the failure in the administration of justice against financial crimes, and the weakness of the law and the courts in all attempts to compel the banks to deal honestly and justly with the public. The militia were under arms on the day that the suspension took place.†

It spite of all that had happened during the preceding three years, it is stated on the best authority that the suspension of the banks had not been anticipated.‡ Under the safety fund act, any bank which refused to redeem its notes on demand was to be enjoined by the Chancellor, put in the hands of a receiver, and forfeit its charter. The Legislature hastened to suspend this law for a year. It was also proposed to suspend the law of 1835,

* 1 Raguet's Register, 229. † 52 Niles, 162.
‡ 3 Gallatin's Writings, 395; Raguet, Currency and Banking, 188.

which prohibited notes under five dollars. This was not passed, and it is said that this is the reason why the democrats were defeated at the next State election.* There were at this time ninety safety fund banks, with a capital of $32.2 millions, and nine chartered banks not in the safety fund, with a capital of $5.1 millions. Gallatin says that the suspension law was unnecessary and useless; that it gave the banks no new liberty, and was not wanted by them.

The Philadelphia banks suspended as soon as they heard that the New York banks had done so. They declared that they had plenty of specie for Philadelphia, but not enough for the "Atlantic seaboard." They said that, as the balances stood, all their specie would have been drawn away. They agreed to pay each other interest on daily balances, and to limit the amount which one might owe another, under penalty of handing over to the creditor the choice of the bills receivable of the debtor.† As fast as the news spread the banks with very few exceptions suspended, from one end of the country to the other. The Governors were generally called on to summon extra sessions of the Legislatures. In some cases they did so and in others they refused. Governor Ritner of Pennsylvania published a proclamation stating that he would not call a session of the Legislature, because all the measures which it was proposed to adopt would be mischievous; namely, to issue small notes, which would increase the circulation instead of diminishing it; to prevent the forfeiture of the charters, which would relieve the banks of the necessity to resume, and would set them free to enter upon inflation; to enact a stay law, which would destroy all respect for law.

The banks of Natchez and Montgomery suspended some days before those of New York, and those of Mobile and New Orleans at about the same time, but without knowledge of what had taken place in the North. There was just at this time an extra session of the Legislature of Mississippi, which was diligently at work manufacturing bank charters.‡ It authorized the suspension, and authorized the banks to issue post-notes for a year. The Union Bank of Florida published a statement in the newspapers, May 10, 1837, before the suspension at the North was known, which showed that it possessed but $76 in foreign bank notes with which to pay deposits $108,694 and circulation $254,941. It never resumed afterwards.§

If the utterances of bank conventions, bank commissioners, legislative committees, etc., in the different States are read side by side, they are found to contain almost identical expressions to the effect that the public of "our" State is to be congratulated on the soundness of the banks in it, while the general suffering is attributed to the folly and errors of neighbors; that our banks have plenty of specie for themselves, but that they cannot be expected to provide all their neighbors with specie; that it is impossible for any to maintain specie payments unless all do.

* 2 Hammond, 470. † 1 Raguet's Register, 225. ‡ See page 251.
§ Committee on Corporations, 1842.

May 20, Niles said: "There are still a few banks that continue to pay specie for their notes, but specie is nearly banished as a circulating medium, and its place is filled by those abominations called shinplasters, which are becoming as plentiful, and will prove as troublesome as the frogs of Egypt."* This anticipation was only too completely fulfilled in the next three years, but the issuers of shinplasters were rather individuals, firms, and municipal corporations, than banks.

Immediately after this suspension, Biddle published another letter to Adams to explain why the Bank of the United States had acted with the others. He said that the other banks were forced to suspend because the deposit banks had done so. The United States Bank could have gone on, but comity to the other Pennsylvania banks dictated that the people of Pennsylvania should not be compelled to pay in different money from that used in the other States.

This letter was another of Biddle's meretricious literary productions. It is certain that suspension was no more welcome to anybody than it was to the Bank of the United States, and it was extremely satisfactory to be able to make it under the cover of a necessity alleged to arise from the action of the banks of New York. In Philadelphia the general opinion was voiced by the "United State Gazette," which said, May 12th: "A large portion of the benefit of the measure would have been lost if any bank had declined to join with the rest. Great credit is due to the United States Bank for her accord, to which step Mr. Biddle has surrendered his reluctant consent in obedience to the obvious interests of the community, without impairing in the general opinion the stability or fame of his institution." To the contrary of this we must believe that Biddle now lost the grandest chance which he and the Bank ever had. "If," wrote Gouge in 1838, "he had maintained specie payments for only one month after the other banks suspended, the government would, under the existing law, have been compelled to employ his Bank as its sole financial agent; and thus his triumph over the government, which is the wish dearest to his heart, would have been complete."† It was admitted on all sides that the "experiment" of using the local banks had failed, and there was a very strong revulsion of feeling in favor of the national bank. If the Bank of the United States had really been strong and sound, and had proved it by going on when the others suspended, it is as probable as any such historical speculation ever can be that it would have been reinstated in its former position.

General Hamilton of South Carolina, who was president of the bank which had bought the branch of the United States Bank at Charleston, in his turn addressed a letter to Biddle, proposing a bank convention to be held at Philadelphia in August, to bring about resumption. He declared that the speculation had its causes outside of all the controversies between the Bank and Jackson. He thought that the Pennsylvania charter for a

* 52 Niles, 193.

† Democratic Review, December, 1838.

$35 million bank was unwise, and only a sign of the infatuation for banks, and proposed that an amendment to the Constitution should be sought to incorporate a national bank.

Adams did not reply to Biddle, but he also wrote a public letter in July: "We are now told," said he, "that all the banks in the United States have suspended specie payments; and what is the suspension of specie payments but setting the laws of property at defiance? If the president and directors of a bank have issued a million of bills, promising to pay five dollars to the holder of each and every one of them, the suspension of specie payments is by one act the breach of a million of promises. What is this but fraud upon every holder of their bills, and what difference is there between the president and directors of such a bank and the skillful artist who engraves a bank bill, a fac-simile of the bill signed by the president and directors, and saves them the trouble of signing it by doing it for them? The only difference that I can see in the two operations is that the artist gives evidence of superior skill and superior modesty. It requires more talent to sign another man's name than one's own, and the counterfeiter does at least his work in the dark, while the suspenders of specie payments brazen it in the face of day and laugh at the victims and dupes who have put faith in their promises."

Public meetings were held from one end of the country to the other about the suspension of specie payments, at which resolutions were adopted embodying every conceivable view of the case, its causes and its remedies. A meeting of loco focos at Philadelphia declared that all the banks were in league with Britain and European monarchies to plunder free America by draining off the gold. They appointed a committee to ask the banks to pay their five and ten dollar notes. The banks replied that on a specie currency only those could do business who had gold and silver. The banks supply by their credit a deficiency which otherwise would exist in the circulation. This was another repetition of the notion that "there would not be money enough to do the business if it were not for the bank issues." At the meeting at Baltimore the resolutions denounced the British party and the United States Bank for "preconcerted suspension;" they declared banking a fraud, and denounced the issue of small notes by corporations.

In May a Constitutional Convention was held in Pennsylvania, one of the chief causes for calling which had been the hope of introducing into the Constitution limitations on banking and paper money. A large party also hoped by this means to destroy the United States Bank. The attempt failed, but an article was put into the new Constitution requiring six months public notice of an intended application for the enactment or extension of a bank charter; no charter to run more than twenty years; every charter to reserve to the Legislature the right to amend or annul it, if injurious to citizens, though without injustice to corporators; no one law to create or extend the charter of more than one corporation.

On the 4th of July, an Anti-bank Convention was held at Harrisburgh,

which endeavored to make the hostility to the banks a political force, and to organize it for the purpose of a "reform of banking." In all these complaints and denunciations of banking the positive desire which is expressed is that the banks shall serve equality by their operations. A loco foco meeting at New York resolved that the banks ought to help poor men to emigrate and that Congress ought to give each one from eighty to two hundred acres.

In August, Biddle still hoped and believed that the Executive Department would find it necessary to return to the Bank of the United States.* In September Adams mentioned that he bought of the Bank in Philadelphia, with its own note, a draft on Washington. The draft was payable in current funds, which were depreciated eight per cent. or twelve per cent. He made no remark because he wanted to be unbiased about the Bank.

The method in which, at this time, the Bank operated the foreign exchange transactions of the country was as follows: "The cotton crop of the South beginning to come into market at New Orleans, Mobile, and other cities, in the month of October, and continuing to come until the following summer, a large share of the operations of the Bank of the United States, through its branches at those places, has been to purchase the bills of exchange drawn on Europe or the northern cities by the merchants who have shipped cotton. By the purchase of these bills, payable in the notes of the Bank, the merchants of the South have been enabled to pay the planters of Louisiana, Mississippi, Alabama, Tennessee, and other States, for their cotton; who in turn have been enabled to pay their debts to the country merchants; and these last again to the merchants in New York and Philadelphia. In performing this particular function, the notes of the Bank have in reality been nothing but duplicate bills of exchange, absolutely representing a certain quantity of cotton, taking the place of the original bills which the shippers of the cotton had drawn, and possessing this advantage over the latter, that, being universal credit and negotiable without endorsement, they could be applied to the payment of every debt, great or small. They were therefore preferred to any other form of bills to which a sale of cotton could give rise; and if they did not get back to the Bank in Philadelphia as soon as the bills for the purchase of which they were issued, it was because they had to traverse a more circuitous route."†

Biddle was fully familiar with these operations. He had been practising them for ten or twelve years. It was with his mind on them that he made his contracts for the relief of New York. It was one of the dearest triumphs of his life to "save" New York, and he got, at the same time, a complete cover of magnanimity and glory for the things which he was most anxious to do, and which, if done upon his own motion, would not have looked well. In issuing his post-notes for the assistance of the New Yorkers, he found himself placed in far more complete control of the whole movement of com-

* 9 Adams's Diary, 363.

† 1 Raguet's Register, 97.

merce and banking in the United States, and the relations of the same with foreign countries, than he ever had been before; and if his Bank had been sound instead of being rotten, the plans which he made might have been crowned with complete success. The sale of securities in Europe and the constantly extended credits there had, as we have seen, produced an entirely artificial state of things here, inside of which the inflation had been pushed to extravagant limits. The failure of the credit abroad meant a turn in the exchanges, an export of specie, contraction by the banks, a fall in prices, a collapse of the improvement enterprises in the States, and a general bankruptcy. Biddle's doctrine was that there must be an extension of credit until crops could be produced and marketed in order to reduce the debt. He said nothing of the frugality in expenditure, which must attend upon this as an essential factor. Indeed his position and that of his Bank made him necessarily an inflationist; and this, as we shall see, was why his plan failed. For the first step, however, he proposed to get the extension by substituting for the credit of individuals, which had broken down, the credit of his Bank, which was the best credit then in the market. Then his plan was to get control of the crops, which in fact meant cotton, on behalf of the Bank, and with the proceeds cancel his bonds.

In 1841, Biddle gave as the reason for buying cotton on account of the Bank, that it was not safe to buy private bills, in the summer of 1837, on account of their poor credit. It seems, however, that the Bank had already a large amount of southwestern bank notes in its possession, at that time, as it certainly had later, and that it was desired to use them. In this period, as in 1818, there was an immense speculation in uncurrent notes. The different artifices and methods by which they were employed constituted an art by itself. Such a speculation was combined with the operations of the Bank in cotton. In the absence of opportunities to study these tricks and devices thoroughly, there remains an element of mystery for us in some of them.

The purchases of cotton for account of the Bank began in July on the last of the crop of 1836-7.* In one of the cases at law which arose in 1842 a brother of Jaudon was put on the stand. He testified that Biddle and Jaudon entered into a partnership and furnished the witness with funds of the Bank to carry on the business as their agent. At different times he obtained $2 millions from the bank. He was allowed two per cent. commission, which was added to the cost of the merchandise. The goods were then shipped to Europe and sold. His commission on purchases amounted to $40,000, besides which he received a "bonification commission" on the sales, amounting to $20,000 more. The money was obtained from the Bank by credits passed to the witness's account on tickets or orders signed by Cowperthwaite, cashier. The profits amounted to $50,000, which was divided between Biddle and Jaudon. The business was conducted through

* 52 Niles, 322.

the Committee on Foreign Exchanges and apparently with their knowledge and consent. Two of the members of that Committee testified that they had been wholly ignorant of the nature of the transaction and would not have permitted it if they had known about it.*

The Investigating Committee of 1841 could not ascertain what had been the profit or loss of the first transactions because the papers had been withdrawn from the Bank. They said that accounts appearing on the books of the Bank as "Advances on Merchandise" were in fact payments for cotton, tobacco, and other produce, bought by Mr. Nicholas Biddle, and shipped by himself and others to Europe.

During the summer the great banks in the Gulf States began the same operation. This policy was extremely popular in the cotton region. The Vicksburg "Sentinel" said, in November, 1837, of the Brandon Bank: "It will be seen at a glance that the master stroke of policy pursued by this bank last summer, while it rallied around it the devotion of our planters, will give it the command of eastern funds or specie, and thus place it in a better position than any other banking institution in the United States. The timely aid which it afforded to our planters last summer has awakened a feeling in its behalf all over the country. It is decidedly the most popular bank in the State; and it has the means at its command of resuming specie payments sooner than any bank in the South."†

The failure of the banks, including the deposit banks, almost arrested the operations of the treasury of the United States. May 12th the Secretary ordered collectors to keep in their own hands money collected for duties, if the deposit banks should suspend. Payments out of the treasury were to be made by checks on those banks. If such checks were not paid, at specie value, they would be received for dues to the government, and Congress would be asked to provide for them. Thus a new kind of currency was produced, and a kind of sub-treasury system grew out of the situation. A case is mentioned in which ten per cent. premium was paid for gold to pay duties, while debentures were paid by checks on the deposit banks payable in their notes.‡ Such cases might occur, if the person entitled to debentures was so eager for his money as to accept the notes of the suspended deposit bank; but the government never authorized this or recognized it, and the checks were salable at a slight discount to all persons who had anything to pay into the treasury. The premium on them steadily advanced during the summer until it was just less than that on specie. In the meantime the deposits lay untouched. May 14th, the Postmaster-general ordered postmasters to take only specie or specie notes for dues to that department. It was in this connection that the lack of small coin was most felt. May 15th the Solicitor of the Treasury ordered collectors to postpone suits on duty bonds, at six per cent., until October 1st, if proper security was given. At a meeting at Boston, May 17th, very violent language was used about the rule

* Gouge; Journal of Banking, 264. † 1 Raguet's Register, 191. ‡ 52 Niles, 177.

that the Post Office Department should take only specie. A committee which was appointed did not call the meeting together again because it was found that the law allowed no other course than that which had been taken. The Collector at New York declared that he would take bank notes for duties on his own responsibility, but was rebuked and corrected by the Secretary of the Treasury; yet the receipt of treasury drafts on the deposit banks for duties was authorized. In New Orleans the Collector and Postmaster seem to have nullified the orders.*

The Secretary of the Treasury also addressed a circular to the deposit banks, asking them whether they expected to resume soon, what steps they were taking to bring about resumption, and what measures they proposed to take to indemnify the government for the breach of contract.

The feeling of the administration and its supporters toward the deposit banks at this time was one of animosity and resentment. It was felt that the Jackson party had broken down the great Bank for them, had given them a magnificent chance, had put faith in them and loaded them with favors, and had even incurred odium on their behalf, and that the banks had returned this only by selfishness and folly. It was felt that they had made no return to the Jackson party, although they had in fact given it their votes, but that they had by their extravagant behavior brought disgrace upon the administration and betrayed its responsibility. No one took up the defense of these banks, and the rancor against them found little expression. The most outspoken denunciation of them was in a letter by Jackson, July 9th:

"The history of the world never has recorded such base treachery and perfidy as has been committed by the deposit banks against the government, and purely with the view of gratifying Biddle and the Barings, and by the suspension of specie payments, degrade, embarrass, and ruin if they could their own country." "Now is the time to separate the government from all banks—receive and disburse the revenue in nothing but gold and silver coin, and the circulation of our coin through all public disbursements will regulate the currency forever hereafter—keep the government free from all embarrassment, whilst it leaves the commercial community to trade upon its own capital, and the banks to accommodate it with such exchange and credit as best suits their own interests—both being money making concerns, devoid of patriotism, looking alone to their own interests—regardless of all others."†

The opposition exhausted the vocabulary of impatient derision and contumely upon the separation of the treasury and the banks. They built up a theory of due connection between the banks and the fiscal operations of the government, out of which they affirmed that specie payments and financial health must necessarily follow, and not otherwise. Webster especially distinguished himself by going about the country elucidating these doctrines. From them were derived the stock objections to the

* 52 Niles, 210. † Raguet's Register, 58.

independent treasury which were reiterated again and again during the following five years. The policy adopted by the administration at this juncture prevented the national treasury from being dragged down into the sink of bankruptcy into which the banks had plunged themselves.

In the meantime the distribution of the surplus revenue had been taking place. The first three installments were paid to the States in January, April, and July. While this operation was going on, the Treasury, which was giving away $37 millions, and which had several millions more locked up in the deposit banks, which it could not use without sacrificing the principles of currency and banking to which it was bound by law, was falling into great distress to meet its current expenditures. May 15th the President called an extra session of Congress to meet September 4th. In his message he enlarged upon the mischievous effects of the expansion of credit, and said that "the selected banks performed with fidelity and without any embarrassment to themselves or to the community their engagements to the government, and the system promised to be permanently useful; but when it became necessary, under the act of June, 1836, to withdraw from them the public money for the purpose of placing it in additional institutions, or of transferring it to the States, they found it in many cases inconvenient to comply with the demands of the Treasury, and numerous and pressing applications were made for indulgence or relief. As the installments under the deposit law became payable, their own embarrassment and the necessity under which they lay of curtailing their discounts and calling in their debts, increased the general distress, and contributed with other causes to hasten the revulsion in which, at length, they, in common with the other banks, were fatally involved." He declared that the law of the United States, from the beginning, provided that the revenue should be received in nothing but gold and silver. "Public exigency at the outset of the government, without direct legislative authority, led to the use of banks as fiscal aids to the Treasury. In admitted deviation from the law at the same period, and under the same exigency, the Secretary of the Treasury received their notes in payment of duties."* The only justification for this was that the notes were immediately convertible into specie. The law of 1836 and the resolution of 1816 left the Treasury no place of deposit and no currency for its receipts. The government funds were locked up in the suspended banks, and there was a large deficit. He was opposed to the national bank; the State banks had proved incompetent; that "experiment had failed." He proposed the independent treasury system, with gold and silver as the sole medium for the transactions of the government. This became the proposition around which the political battle was waged for the next four years. It split the democratic party, the radical or loco foco wing supporting the proposition, and the bank democrats going into the opposition in order to oppose it. The whole bank interest, therefore, was united against it. Some-

* See page 22.

times they alleged that if the federal government did its business with gold and silver only, this would give it control of the entire commerce and finance of the country; sometimes, on the other hand, they declared that if this measure was adopted, the federal government would lose all power to bring about a resumption of specie payments, and would thus abandon its most important duty in the existing circumstances. It should also be noticed, with respect to the alleged curtailments by the banks, on account of distribution, that they made none during the latter half of 1836, but, on the contrary, increased their loans and discounts from $164 millions to $166 millions.*

The Secretary of the Treasury, in his report at the opening of the extra session, stated that, in trying to find other depositories which could satisfy the requirements of the law, he had succeeded in finding but one. Four had not suspended and one had resumed, so that he had six at his disposal.†

If, at this moment, the United States Bank of Pennsylvania had been a specie-paying bank, impregnable in its banking strength and integrity, pursuing its way in the midst of the storm as a model of sound finance, its notes alone would have satisfied the requirements of the law, and would have sufficed in quantity, so that they would have become the currency of the federal Treasury; neither would the Secretary have dared, when he was scanning the country for a depository, to pass it by.‡

The Secretary proposed that an issue of treasury notes should be authorized, both interest-bearing and non-interest-bearing; and in fact proposed the latter as a system of government currency. The Treasury report in December showed that the total amount nominally in the Treasury was over $34 millions. Of this, $28 millions was disposed of by deposit with the States. There were $1.1 millions of old, unavailable paper from 1819; $400,000 were in the mint for coinage. There were locked up in the deposit banks $3.5 millions, and there were trust funds $370,797. The net residue, therefore, actually at the disposition of the Secretary, January, 1838, was only $700,000. Of the eighty-six banks employed at the suspension, ten or eleven had paid over all the money held by them. Some still held very large sums.

In order to form some idea of the operations which were going on, and which within twelve months had been inflicting shocks upon the whole monetary system of the country, let it be noticed that the land speculations in the latter half of 1836 had been carried on under the specie circular, causing a movement of specie to the Mississippi Valley; also that the Secretary of the Treasury had been moving the public deposits inland, in order to distribute them "evenly." The consequence was that the public deposits in the banks of the Mississippi Valley were some $8 millions in

* 1 Raguet's Register, 150.

† People's Bank, Bangor, Me.; Brooklyn Bank, Brooklyn, N. Y. (after it resumed); Planters' Bank of Georgia; Insurance Bank of Columbus, Georgia; Louisville Savings Institution, Ky.; Bank of the State of Missouri.

‡ See the quotation from Gouge, page 273.

excess of the amount of surplus revenue to be distributed to the States of the Mississippi Valley; so that that amount in specie was called for to be transferred back again to the Atlantic coast.

Congress passed an act, October 2d, postponing the payment of the fourth installment until January 1, 1839. At that time there was no surplus, and the fourth installment never was paid. The whigs declared that there was a *quasi* contract, and they wanted to issue treasury notes in order to pay the amount. The Secretary of the Treasury wanted to recall or retain the installment because it was needed for current expenses. J. Q. Adams proposed to set apart the debt of the deposit banks to pay the fourth installment, and, if it was not sufficient, to appropriate the payments for the government stock in the Bank of the United States to make up the deficiency. He showed that the balances due from the deposit banks were nearly all due in the southwestern States. The Treasury had drawn nearly all its credit from its best debtors for the first three installments, and nearly all its credit was yet outstanding with its worst debtors for the remaining installment. "The balances due from the deposit banks in the single State of Mississippi, a State with four electoral votes, are nearly $100,000 more than adequate to pay the whole fourth installment, receivable by herself and the six New England States." Another act of October 14th took from the Secretary of the Treasury the power to recall these "deposits" with the States and conferred it on Congress, who have never had courage, even in the exigencies of the civil war, to recall this money. October 16th, a law was passed to institute suit against the deposit banks for the deposits, unless they should pay or give bonds with security to pay, in three installments, July 1, 1838, January 1, 1839, and July 1, 1840. In his message to the New York Legislature in 1840, Governor Seward said that the fourth installment was still withheld. "I cannot," he added, "doubt that you will insist upon the fulfillment of the pledge of the federal government, and will, at the same time, protest against the withdrawal of the installments already received."

October 12th, treasury notes were authorized in denominations of not less than $50, receivable in all payments to the United States, and bearing not more than six per cent. interest. On the same day an act was passed extending the credit on all bonds for duties similar to the extension which had been granted by the Treasury Department since May. Each bond was to have an extension of nine months.

The first bond of the Bank for the government stock was due in September, 1837. It bought up, in anticipation of this payment, drafts by the Treasury on the deposit banks, in behalf of the States under the distribution. There was some objection at the Treasury to receiving these; but a clause was introduced into an appropriation bill allowing it.

The monthly reports to the Auditor of the State of Pennsylvania, which were called for by the charter of the United States Bank, were regularly made during 1837. The capital is put at $28 millions until July 1st, when it is put at $35 millions again. The loans in Europe, on the 1st of January,

were $6,788,194, and so remained until August 1st, when they began to decline, and were, October 2d, $4,798,611, where they remained until the end of the year. The bonds in Europe begin May 11, at $4,318,149; December 1st they were $6,728,189. Bills receivable for post-notes begin, June 3d, at $2,644,242; they declined gradually to $713,570 in December. From July 1st the circulation of the old and new Banks was stated separately. December 1st that of the old Bank was $27.5 millions.

In September, 1837, Jaudon's commission as agent in England was enlarged. He opened an agency with such extended functions as to be almost a branch of the Bank of the United States.

It was thought by some that Jaudon might injure the "situation and prospects" of the Bank of England.* In February, 1838, he was said to be exchanging shares of the Bank for its bonds. The correspondent thought that he must have disposed of $3 millions worth of shares. They were said to be the leading object of speculation, and the price ruled higher there than here.† March 2, 1838, Jaudon gave notice that he would discount at three per cent. the bonds of the Bank which would fall due April 1st. A correspondent says that, by this notice in respect to the bonds, the agent of the Bank "by the aid of his meltings of the bills given for cotton and State securities has succeeded in giving a *couleur de rose* aspect to that particular description of security."‡ These operations were not, however, regarded by the Englishmen without suspicion. The correspondent says that it is hardly understood how Jaudon has accumulated the capital which he appears to have; "but some go so far as to say it has been done by the issue of fresh bonds on the sale of shares." He also undertook to exercise some control of the London money market, and so found himself at war with the Barings and the Bank of England, who disapproved of his proceedings. The Barings refused to keep the agreement which they had made, the previous spring, to meet the drafts of the Bank of the United States. One object of enlarging Jaudon's mission in September had been that he might take their place. This, however, made the bills of exchange drawn by the Bank, drafts of a principal on an agent, and the Bank of England refused to open an account with him.§ The London "Times" said, a year later, that he was able at first, when credit was easy, to get an appearance of success, but that afterwards his position was false.‖

In October, both in this country and in England, the financial situation seemed very much improved, and it was generally believed that the crisis was over. It was declared in London that the American debts had been paid with unexpected promptitude, and that this had greatly relieved the situation.¶ In November, $2.6 millions, five per cent. canal stock of New York, was sold to the Albany banks at 106, equal to specie par, to be paid for in specie as wanted for the canals, and in the meantime to be used solely

* 1 Raguet's Register, 235. † Ibid, 334. ‡ Ibid, 349. § N. Y. "Express" in 54 Niles, 161.
‖ 56 Niles, 294. ¶ 1 Raguet's Register, 205, 207.

to get specie. The banks were to provide the Commissioners with specie which would pay the interest on the State debt until April, 1838, and were to pay interest on the stocks sold or loaned to them.

In January, 1838, Charles Kuhn tried to force a forfeiture of the charter of the Bank of the United States under that section of it which provided that if it should ever refuse to pay any of its obligations in gold or silver, the holder thereof might apply to any Judge, who should give ten days' notice of a trial, and if the facts were substantiated, should so certify to the Governor who should by proclamation declare the charter forfeited.* Kuhn commenced the proceedings, but during the ten days' delay the Bank paid the note with twelve per cent. interest, and it was held that the former holder of it could no longer, for public purposes, bring about a forfeiture.† Kuhn seems to have renewed his attempt in March. The Court gave full validity to the notice which had been posted in the Bank upon the suspension of specie payments, that all notes, checks, and drafts would be "payable in current bank notes of the city of Philadelphia." This was declared to be due notice and warning to Kuhn that he could not expect money for an obligation of bank notes, and the Judge said: "I decline reducing the testimony to writing and transmitting it to the Governor, the applicant not having, according to my judgment, substantiated the facts of his case."‡ This rendered another of the supposed guarantees of the public against the abuses of banking nugatory. In another case Kuhn recovered $7,000 with twelve per cent. interest from the Bank, being deposits due him on the 8th of June, 1837, which the Bank had refused to pay except in current funds.

The current quotation of specie in 1837 and 1838 was for half dollars. The premium at New York, in May, was eleven; it declined steadily until the 1st of January, 1838, when it was three; and it ceased to exist on the 20th of May. The exchange at New York on New Orleans was at seven to ten discount in May; January 1, 1838, it was at two to three discount; but on the 19th of May it was from eight to ten discount. The exchange at New York on Mobile, January 1, 1838, was from five and a-half to six discount; April 21st, it was from twenty-five to thirty, but then improved until May 20th, when it was twelve to fifteen. February 10, 1838, exchange on London at New York was at seven and a-half premium; specie being at three and a-half premium; making sterling exchange really five and a-half below the true par. In March the domestic exchanges were quoted at New York as follows: Mississippi, twenty-five discount; Tennessee, twenty discount; Alabama, seventeen discount; Georgia, ten discount; Ohio, eight discount; Michigan, twelve discount; and Wild Cat, twenty-five discount.

About April 15, 1838, notice was posted at Prime, Ward & King's that arrangements had been made with the Barings and the Bank of England to send to this country £1 million sterling in specie to support the banks in resumption, and that £100,000 had already come; but in May the Bank of

* See page 228.

† 2 Ashmead, 170.

‡ 2 Raguet's Register, 126.

England receded from this undertaking.* There had been some quarrel between Jaudon and the Bank of England, of which only obscure and certainly inaccurate information transpired here. "The cause of that quarrel originated in the jealousy with which Mr. Jaudon's doings in London were watched." "Mr. Jaudon, we all know, was very coldly received by the Barings. The Bank of England refused to keep an account with him, and he was tabooed for a while. He very quietly, however, worked his way and surprised everybody after a while by a great operation in which he underbid the Bank of England, as before stated in this paper, backed by the immense cotton batteries Mr. Biddle was sending him, and having principal control over that great staple. He had not much to fear even from the Bank of England, cotton being better than bank paper and quite as serviceable as specie." The Bank of England has retired from its enterprise to export specie, sacrificing the insurance already paid on an amount on board ship. Specie is also being sent from New York to Philadelphia, which does not come from the New York banks, but may be part of the consignment from England. "The London 'Morning Chronicle' tells us the Bank of England has made peace with Mr. Biddle, and here we have a clue. The same journal insinuates that the Bank of England was weary of the war." There were rumors that Jaudon was invading the business of the Bank of England and would demand specie of it. "The cotton market in Liverpool, we have reason to believe, has been sustained alone by the irresistible energies of Mr. Biddle. His stock has been immense, and he would not submit to the sacrifice, and he was not compelled to submit forthwith. However, to sustain the market forever, specie going out all the while, was a thing impossible. The cotton market began to droop. This effort of his with the Bank of England—this reconciliation—may have been to save it, and it may be that it will be kept stationary, the orders being countermanded for the exportation of specie. * * * Of the wisdom of Mr. Biddle's policy in waiting for another crop before the resumption of specie payments, when all the banks of all the States could resume at once, we have never had a doubt; of the admirable manner in which he has carried through the storm every solvent merchant of his own city, all Philadelphia speaks with pride and exalted satisfaction, as it contrasts its own condition with the mischievous rashness which a violent contraction of the currency has inflicted here, but as New Yorkers we were compelled to resume, crop or no crop. * * * Among the other curious movements of the times is a petition now in circulation in this city, soliciting Mr. Biddle to establish a branch of his Bank, or a bank, in this city under a general banking law. Politically and commercially speaking, this is one of the phenomena of the day. To say the least, after all the hard hits he has had here, and the way we have legislated him out of our domain, the spectacle of his coming thus back would be a curious one, but mercantile men have the greatest confidence in his foresight and

* 54 Niles, 128, 161, 177.

sagacity. Whatever be the differences of opinion about his policy as a Pennsylvanian, there is none of his skill as a financier for the section of country he works in."* This passage has very little value for facts, but it is very important for the rumors which were afloat and the opinions which were current at the time. There was a great desire at New York that a branch of the Bank of the United States should be re-established there. This desire existed especially on the part of those who were dissatisfied with the policy of contraction, and thought that the policy advocated by Biddle was the proper one. May 31st, Biddle wrote to the New York Board of Trade: "The repeal of the specie circular by Congress, which took place yesterday, is deemed the commencement of a more harmonious relation between the banks and the government, and the Board of Directors hastened to show their confidence in it by renewing their connections with your city. Accordingly, I am instructed to apprise you that they will at an early period make the necessary arrangements for such an establishment as you request."†

In August Richard Alsop of Philadelphia and George Griswold of New York deposited $200,000 in stocks, and organized a bank, under the general banking law of New York, with the name of the Associates of the United States Bank at New York. Some threats were made to enjoin the bank, but it commenced business on the 27th of September, and began to build a banking house on Wall street. It was always declared on behalf of it that it was an independent institution, allied with the Bank in Philadelphia, but not a branch of it.‡

On July 3, 1838, Biddle offered to loan $300,000 to the Governor of Pennsylvania, to repair the damages by a freshet in the Juniata, and look to the Legislature for reimbursement. The offer was accepted.§

* New York "Express," in 54 Niles, 161. † 2 Raguet's Register, 13. ‡ See page 362.
§ 55 Niles, 306.

CHAPTER XIV.—Continued.

§ 2.—*The Resumption of 1838. The New York Plan* versus *the Philadelphia Plan.*

The most serious limitation on investigations in political economy and finance is that we can make no experiments, because we cannot dispose of the time and happiness of men. For this reason any historical incident which satisfies approximately the conditions of an experiment is of the highest value for the purposes of study. It is almost always the case, however, even when we find a typical instance, that we are left to infer what would have resulted if the case had contained different elements from those which it did contain. We have now before us, however, in this history, perhaps the most remarkable case that can be found of a complete experiment, at the same time and under the same conditions, of two different lines of policy. In May, 1837, the cities of New York and Philadelphia were in as nearly the same circumstances in every respect as any two communities well can be. New York adopted the policy of severe contraction, prompt liquidation and speedy re-commencement; Philadelphia adopted that of relaxation, indulgence, delay, and prolonged liquidation.

The opinion was almost universal amongst statesmen, men of business, and students of political economy that nothing could ever restore the currency but another Bank of the United States. Raguet had very much changed his ideas since 1828. He had accepted Biddle's theories of banking and was a strong adherent of the great Bank. He believed that if any bank paid specie in the midst of others which did not, it would immediately be forced to pay every one of its notes in specie, and he did not make this opinion depend on the fact that all the banks were indebted to each other. He also thought that it was "utterly impossible for banks of two or three millions of dollars capital to exercise an influence over the money concerns of a whole community." He argued that if the "government patronage" could be pledged to the Bank of the United States, it could

resume specie payment in less than ninety days, by means of loans contracted in Europe. He had also adopted the notion that only the power of the general government could save the country, and to the question, How? he answered, "Through the agency of the Pennsylvania Bank of the United States, which, being already in operation, presents the only practicable mode by which immediate action can be effected." He added a declaration that he wrote without any conference with the authorities of the Bank. His good faith and integrity of opinion are beyond all question. He always insisted that without a bank the government could not bring about a restoration of specie payment.* Calhoun declared in the Senate, September 18, 1837, that specie payments could be restored by re-adopting the Bank, but he would not vote for this, because it was unconstitutional. That all the whigs thought the same goes without saying.

The New York act of May 16, 1837, allowed suspension for one year; forced all the banks which took advantage of it to accept each other's notes; forbade them to sell their specie; limited their circulation; provided that they should make monthly reports to the Bank Commissioners; and provided that the safety fund banks should have no income from the fund during suspension. All chartered banks which availed themselves of the act must submit to the visitorial power to which the safety fund banks were subject. Finally, they were forbidden to make dividends while suspended, which was the most effective provision of all to enforce resumption.† Really insolvent banks might still be enjoined by the Commissioners, when the others no longer need accept their notes. The law only remitted those penalties which were exactable by the State; forfeiture, etc. The remedies of private creditors remained intact, and if they were not enforced it was only because there was general acquiescence in the prevailing policy.

The leading bankers in New York began to prepare for resumption immediately after the suspension. Elsewhere the banks generally continued to pay dividends, sometimes eight or ten per cent., although they were not paying their debts. August 15th, a meeting of the officers of the New York banks was held, from which a circular was issued on the 18th, to some of the banks of other cities, inviting them to send delegates to a convention at New York in October, at which measures might be concerted for resumption. It was suggested that resumption might be reached between January and March, 1838, although they thought that the foreign exchanges must be reduced to specie par before specie payments could be re-established. The ground taken in this circular was that the banks were bound by law and honor to resume; that resumption did not depend on congressional action but must be accomplished by the banks. To this circular the banks of Philadelphia replied that they fully shared the anxiety for resumption and would join in the convention if it would do any good, but that, without the action of Congress, resumption could be only partial and temporary; hence

* 1 Raguet's Register, 163, 209.

† Gouge; Journal of Banking, 164.

they declined to appoint delegates. J. Q. Adams reports a conversation which he had with Biddle at this time. Biddle thought that the proposition of the "deposit banks" of New York "was a mere stratagem to procure the restoration to them of the public deposits;" that they knew that resumption was impossible until the foreign debt was paid, "and made the proposal to plume themselves upon it and gain credit for the performance under the delusion of a false promise." He had told General Hamilton, of South Carolina, that resumption "could not be maintained a week."

Here the matter rested until after the extra session of Congress, when, October 20th, the New York banks sent out invitations to a convention at New York, November 27th. As an indication of the jealousy existing between the two cities, it is instructive to note that so good a writer as Raguet, when trying to explain why the exchanges were against both Philadelphia and Boston, in November, declared that it was because drafts on New York were not paid, but were thrown back on the other two cities. "What therefore makes New York the creditor city is the fact that she is a debtor."* As for Boston, the banks there had, since the suspension, pursued a policy of expansion. In general the banking system of Boston at this period was not strong.†

The bank convention sat from November 27th to December 2d. There were one hundred and thirty-five delegates from eighteen States, including Pennsylvania. The opposition was led by Pennsylvania and was dilatory and obstructive in its tactics. The leading proposition was to resume July 1, 1838. The other proposition was to appoint a committee to inquire, and to call together the convention again whenever it should seem best. The convention was adjourned until April 11th, without action.‡

A somewhat acrimonious controversy arose in the New York papers about this convention, and its apparent fiasco. The "American" said: "The most serious obstacle to New York resuming alone is a sort of vague and indefinite belief that unless the United States Bank of Pennsylvania comes into the measure, it cannot be successful." The "Commercial Advertiser," comparing all the banks of the State of New York with those of Boston, Philadelphia, and Baltimore, showed that the former were weaker than any of the latter, and repelled the imputation cast on the Bank of the United States by the "Albany Journal" for having attempted to thwart the efforts of the New York banks to resume. The "American" argued that while New York had been reducing her obligations, in order to resume, and Philadelphia had gone on expanding, the latter had won an apparent advantage at the expense of the former, and now New York was told that she should not collect her debts from Philadelphia, and resume, and take the benefit of resumption, but should allow the debt to stand. The "Commercial Advertiser" answered this, which it said was aimed at the Bank of the United States, by referring back to the aid given by Biddle

* 1 Raguet's Register, 176. † Ibid, 158. ‡ 1 Raguet's Register, 192.

to New York in March; but the "American" returned to the charge declaring that the issue was whether the United States Bank of Pennsylvania would allow the banks of New York to resume without its co-operation. To attribute such a position to that Bank was "a libel upon the common sense, upon the patriotism, upon the character, and the sagacity, of the eminent individual at the head of that institution."

In January, the New York delegates to the bank convention published a report of its proceedings. They set aside, in the first place, all the "considerations of presumed expediency connected with the general situation of the country," which had been urged in the convention, but which had nothing to do with the power of the banks to sustain specie payment. In this they referred to all the old familiar methods of arguing on these questions, which Biddle had used so much, and which had been echoed in the convention by his adherents. Against the doctrine of protracted suspension they denied that it would "be advantageous to the community at large; believing on the contrary, as we do, that its general and permanent interest would be sacrificed to temporary ease and particular classes, should the suspension be continued any longer than absolute necessity requires." "When we see such extensive general, and, we may say, intolerable evils flowing from a general suspension of specie payments by the banks, it is monstrous to suppose that, if they were able to resume and sustain such payments, they should have any discretionary right to decide or even to discuss the question whether a more or less protracted suspension is consistent with their own views of 'the condition and circumstances of the country.'" "It appeared to us that if, after the principal acknowledged cause of the suspension, and which presented the greatest obstacles to resumption had actually ceased to operate, we were permitted to allege conjectures and contingencies as a proper ground for protracting the suspension, there was no time at which some plausible reason of a similar character might not be adduced, and the resumption be indefinitely postponed." Thus they brushed away the whole sophistry by which the prolonged suspension was defended. In January, the banks of Albany resumed; also the Farmers and Mechanics' Bank of Hartford, the New Haven Bank, and the Camden Bank of South Carolina. In February, the banks of Maine held a convention, at which they expressed a hope that the adjourned convention would propose an early date.

In March the Committee on Banks made a report to the Senate of Pennsylvania in which the whole Biddle doctrine of resumption was fully expounded. The most effective point was the assertion that the banks could not resume without enforcing a collection of $15 millions or $20 millions from the public.

February 28th, a committee of the New York banks on resumption reported that resumption would be possible on or before May 10th, when the one year for which suspension had been sanctioned by the Legislature would expire. By way of preparation, they proposed that a system of settlement of balances between the banks should be introduced. The associated banks

of Boston also proposed the same step and resolved to introduce the prompt payment of balances after resumption.*

The severity of the contraction by which the New York plan had been pursued during 1837 is shown in the following figures, Such a policy could not fail to produce a party of opposition. The demand liabilities of the New York city banks, exclusive of the Dry Dock Bank, were, on the 1st of January, 1836, $26.9 millions; on the same date, in 1837, they were $25.4 millions; and in 1838, $12.9 millions.† April 7, 1838, they had $2.50 of assets for $1 of debt. They also had New York State stocks to the amount of $1 million, for which specie was expected before May 10th. The banks of Pennsylvania owed to the banks of New York city $1.2 million.‡

As the time approached for the re-assembling of the bank convention, Biddle published another letter to Adams. He was bound to find some reasons for not participating in it, and they must be elevated. He declared that, "Our principles incline us to an early resumption; our preparations would justify it; and if we were at all influenced by the poor ambition of doing what others cannot do so readily, or the still poorer desire of profiting by the disasters of others, the occasion would certainly be tempting. * * * The great prerogative of strength is not to be afraid of doing right; and it belongs to those who have no fear that prudent counsels will be mistaken for timidity to examine calmly whether the general interest of the country recommends the voluntary resumption of specie payments in May next. * * * The credit system of the United States and the exclusively metallic system are now fairly in the field, face to face with each other; one or the other must fall." It is a political struggle, and resumption is wanted for political effect. The Executive is entirely hostile to banks, and resumption can only be accomplished, as it was in 1817, with the help of a Bank of the United States. It is true that exchange is low at New York, but this is only temporary and unimportant. The plan of the Bank of the United States has been especially to produce no fall in prices, and to make no contraction, and to facilitate the shipment of the crops of the South and West, "placing its own confidential agent in England to protect the great commercial and pecuniary interests of the country. This seemed to be its proper function. It was thus that it hoped to discharge its duty to the whole Union." He blames the New York banks for their rigorous contraction. The New Yorkers have sought loans elsewhere. The effect of this system has been to lower the value of the goods or currency in which the southern and western debtors must pay, and to have the same effect upon our means of paying the foreign creditor. May is a very unfit time to resume. Resumption ought to be general and include the South and West, but they cannot be ready then, because the returns on only a small part of the cotton crop will have been received. The New York men are coerced by their own

* 1 Raguet's Register, 302.
† Report of the Committee of New York Banks on Resumption, February 28, 1838.
‡ "Journal of Commerce" in 1 Raguet's Register, 366.

Legislature, but their law has no importance for anybody else. New York "may perhaps bear it from one than whom she has never had a more true and constant friend, who although an entire stranger, has for a long series of years, done everything in his power to advance her prosperity, and never saw her in any misfortune which he did not anxiously strive to mitigate; but I wish to serve her—not to flatter her. I believe, then, that at this moment New York is in an entirely false position. She is obliged by the existing law to do what she feels to be wrong. Her natural course is to appeal to her Representatives to rectify their mistake, and not to thrust out their own State banks to be crushed by the Executive." The other States ought to tell New York that they will not unite in this forced resumption. "The banks should remain exactly as they are, prepared to resume but not yet resuming. * * * The American banks should do, in short, what the American army did at New Orleans,—stand fast behind their cotton bales until the enemy has left the country."

Nathan Appleton's comment on this letter is: "It announced principles as false in political economy as its whole character was objectionable on the score of mercantile morality. Such was the influence which Mr. Biddle had unfortunately acquired in Philadelphia, that his views, so speciously set forth, were adopted in that city without hesitation, and have continued to control their operations to the present time." That letter "announced distinctly that the banks should not resume until a change took place in the administration of the federal government. It also announced, in language not to be misunderstood, that no resumption should take place until the United States Bank was restored as the fiscal agent of the government."*

The bank convention met again April 11th. There were 143 delegates from 18 States. It was voted to resume January 1, 1839, without precluding an earlier date for any who should prefer. New York and Mississippi alone voted No; the latter State desiring to defer resumption until July, 1839. The New England delegates generally joined Philadelphia and Baltimore in favor of a later day. We are somewhat surprised to find the Suffolk Bank leading those who held back from resumption, in Boston, but this is perhaps explained when we learn that, early in 1838, "the Suffolk drew its balance from the United States Bank, and received in payment United States Bank notes, guaranteed to be paid in specie upon resumption. These notes the directors of the Suffolk authorized their cashier to indorse to the amount of $200,000. It also authorized him to issue them; to receive them on deposit; and to pay them in specie upon resumption."† The Philadelphia banks sent a statement of their reasons for being absent. The chief one was that they did not care to participate in the discussion of a question which the New York banks had decided in advance.‡

Some of the New York banks resumed in April, and those of Boston

* Appleton, Currency, 16. (1841.) † Whitney, 31. ‡ 1 Raguet's Register, 352; 2 ditto, 338.

likewise, for $5 notes. The New York "Journal of Commerce," of the 23d, said that the resumption was complete. This action of the New York banks set a standard and an example. It became an object of ambition at once for all banks which desired a good reputation to endeavor to follow this example. In May it was said: "Without naming any particular day, it is probable that all the sound banks east of New Jersey will, at an early day, one by one, slide into resumption. No symptoms of resuming have yet appeared in Jersey or Pennsylvania, or any State south or west of her, if we except the arrangement made by the Philadelphia banks on the evening of the 7th instant, of paying out in specie the fractions of a dollar, and the law of Michigan which requires resumption on the 16th of June." May 31st, Biddle wrote another letter to Adams, saying that, since Congress had repealed the Specie Circular, he saw his way to resume and would do so. He would co-operate with the government. The leadership, however, had passed away from him, and he had to find a plausible pretext for following in a course which he had striven in vain to prevent. The associated banks of Philadelphia resolved that inasmuch as the Specie Circular had been rescinded, they would appoint a committee to confer with the banks of other States about preparations for resumption.

Governor Ritner, however, now took control of the matter. He published a proclamation, July 10th, requiring the banks to resume, and to pay and withdraw all notes under $5 on and after August 13th. July 23d, a convention was held at Philadelphia, at which the banks of Pennsylvania, Maryland, and Virginia agreed to resume August 13th. Those of New England, Kentucky, and Missouri assented to this action. August 15th, the Governor of New Jersey commanded all the banks of that State to resume within fifteen days. The Ohio banks resumed during the summer. Those of New Orleans resolved to resume January 1st, if the United States Bank would provide a currency until a national bank should be established.* All the Charleston banks except the Bank of the State agreed to resume September 1st. In October, the banks of Alabama held a convention but could not agree on a date, and adjourned without action. In general the banks of the southwest made no attempt to liquidate and resume at this time, but were following a policy of inflation. So far as any intelligent action can be traced in their proceedings, they seemed to believe that the price of cotton would rise again, pay all the debts, and bring back prosperity. The Bank Commissioners of Mississippi reported to the Legislature their opinion that the banks of that State could not resume before August, 1839. The Secretary of the Treasury, in his annual report, said: "It is believed that about seven hundred banks and branches, situated in twenty-two States and Territories, have already resumed specie payments. These, including not far from thirty which never suspended, make seven hundred and thirty

* 54 Niles, 273. See page 299.

now paying specie. Seventy more are expected to resume on or before the first of the ensuing month. Of the residue, amounting to about twenty-five, with a capital of from $3 millions to $4 millions, it is believed that six or eight are winding up their concerns because unprofitable; and that the rest are insolvent."



CHAPTER XIV.—CONTINUED.

§ 3.—*1838 and 1839. Treasury Notes and Bank Notes. Continuation of the Cotton Operations. Second Failure of the United States Bank of Pennsylvania. Second General Bank Suspension, South and West of New York.*

The treasury notes authorized in 1837 were not re-issuable. In May, 1838, the amount authorized had been exhausted, and the Treasury was once more in distress. They were made re-issuable. May 31st, Congress resolved that there should be no discrimination in the currency received by the government for different parts of the revenue. This was a revocation of the Specie Circular. No other laws were passed in regard to the collection of the revenue.

In a new treasury circular, June 1, 1838, the Secretary declared that he was thrown back on the Resolution of 1816. He ordered that no bank note under $20 should be received; none which were not "payable on demand, in gold or silver coin, at the place where issued," and "equivalent to specie at the place where" received; none of any bank which, since July 4, 1836, had issued any note for less than five dollars. As matters stood these were very stringent limitations. It was said that there were only four banks in New York City which could satisfy them.* The bank interest was by no means satisfied. Its influence had availed to cause the treasury notes (since their use was unavoidable), to be put under strict limitations, lest they should supersede bank notes. Necessity had now forced the step of making the treasury notes re-issuable, but the banks looked forward to a time, soon to come, when the public business would, once more, be done altogether with bank notes. They were banded together to bring this about and, if they could succeed, they were indifferent to the danger that some of their number would so abuse it that the Treasury might be left with their notes as an unavailable asset, as in 1818. The point was

* 54 Niles, 225.

well stated by Silas Wright, in a report of the Senate Committee on Finance: "Try the proposition under consideration upon the banks themselves. Would they receive each other's notes at par when they were all specie-paying banks? Will a single sound bank among the whole number now consent to the passage of laws which shall compel them to receive each other's paper at par, or even to receive it at all, after they shall have resumed specie payments? Most certainly not. Then shall Congress by its legislation compel a credit for the notes of the banks at the Treasury, which they will not give, upon any terms, to the notes of each other? Most assuredly the banks will not have the effrontery to ask Congress to do this."

By an act of July 5th, the clause of the deposit act which forbade the receipt of notes of banks which issued small notes was suspended until October 1st. The Finance Committee of the Senate had made a report construing that law that if a deposit bank had suspended, or had failed to honor government drafts in specie, it must be discontinued as a depository, but might, upon resumption, be reinstated.

One thing in the public action of the Bank which had caused more general dissatisfaction than anything else was the continued circulation of the notes of the old Bank. As the New York "Journal of Commerce" argued, April 18, 1838, nobody was responsible for them. "Suppose somebody should get possession of the old notes of Stephen Girard's bank, which have been paid by his executors, and put them in circulation. No one will pretend that the executors of Mr. Girard would be bound to pay them. On the contrary, we reckon that whoever should be guilty of such an act would have his conduct characterized by some short words and be sent to prison to answer for his crime." February 12, 1838, the Senate Committee on the Judiciary made a report condemning the Bank for keeping these notes out, and submitted a bill making it a misdemeanor for the officers of any bank whose charter had expired to issue its notes, punishable by a fine not exceeding $10,000, or imprisonment at hard labor for not more than ten years, or both. A very hot debate arose over this bill, not upon the issue directly presented by it, but upon the whole political struggle about the Bank and the financial situation. The act was passed July 7th, that part of the penalty consisting in imprisonment being reduced to not less than one nor more than five years, and it was also provided that the federal Circuit Court might prohibit such act by injunction.

In May the notes of the old Bank were at four discount in Boston.*

The Treasury of the United States being very destitute of funds, an act was passed July 7, 1838, authorizing the sale of the third bond of the Bank for the government stock, which would fall due in 1839. It was bought by the Bank. At the next session, in answer to a resolution of inquiry, the Secretary reported that the bonds of the Bank could not be sold either here or abroad on the terms set by law, except to the Bank;

* Elliot's Funding, 1154.

because the United States would not guarantee the payment. The purchase money was to be paid in specie or its equivalent, which was put to the credit of the United States August 1, 1838, and the Treasury found itself once more using drafts on the Bank. October 8th, the Paymaster-general made known to his subordinates that arrangements had been made with the Bank to pay the drafts of the Treasurer, and he authorized them to use its notes when they were acceptable to the payee and as far as they were legal.* This was regarded as no slight victory for the Bank.

In August there was a great improvement in trade at Baltimore, Philadelphia and New York, but the banks of Philadelphia had to contract suddenly, which produced a stringent money market.†

In that month the Smithson bequest, $500,000 in specie, was received. The act of July 7, 1838, ordered the Secretary of the Treasury to invest it in five per cent. State stock. He advertised for bids for it and bought bonds of Arkansas, issued for the Real Estate Bank.

In October, 1838, there was great speculation at New York on the debts of the sections still under suspension. Credits in that section were held over by means of certificates of deposit and post-notes, in the expectation that they would increase in value upon resumption. "The largest of all borrowers is the Bank of the United States. It has been able, by the establishment of its bank in New York, to borrow about half a million, by way of deposits, and its post-notes are constantly in market at six per cent. A large portion of those which have fallen due in September and October have been renewed for six months more. It is estimated that from $2 millions to $3 millions of the post-notes of the United States Bank are now held by our city banks." The Bank of the State of South Carolina was also negotiating the "Fire Bonds" of that State, through the agency of the Bank of the United States.‡

At the opening of the cotton season of 1837-8, the speculation in cotton began to attract attention in England, where the buyers did not think that the state of the market for the finished goods warranted an advance in the raw material. The speculation, therefore, retarded the sales, but, in July, 1838, a correspondent writes from Liverpool:

"During the last few months, since the cotton has been arriving in great quantities from the United States, there has been a great struggle here between the buyers and sellers about the prices. The large holders here have been straining every nerve to hold the cotton in order to keep up the prices —the spinners and manufacturers have been pursuing the opposite policy of taking as little as possible. * * * But for the United States Bank, and the other banks of our country that came into the market, including also their policy of a suspension of specie payments, the value of our present cotton crop would have been $10 millions less than it will fetch. The agents of

* 2 Raguet's Register, 302. † 54 Niles, 353, 369. ‡ See page 240.

the United States Bank here, Humphreys & Biddle, have an immense stock on hand, and are daily receiving more. * * * The policy of delaying the resumption of specie payments in the South, whatever be the morals of it, has undoubtedly realized $10 millions to the United States that would have been thrown away here. Recollect I do not approve of any banks going into commercial operations; but our banks were forced into that position by an overruling emergency, and the doctrines held forth and violently persisted in by the Barings and their agents in New York were narrow, selfish, suicidal, and destructive to southern interests and southern property." "Humphreys & Biddle will make large profits by their commissions; the Bank will lose."* Ten days later the same correspondent wrote that the buyers and sellers of cotton differed greatly as to price. Humphreys & Biddle were carrying an immense stock, and the spinners were only buying for immediate needs.† In September the report was: "Cotton is offered in abundance and prices are supported in a remarkable manner; holders not submitting to any decline."‡

In October, the New York "Journal of Commerce" said: "A large part of two cotton crops has now been exported by incorporated banks. It was well for them, perhaps, to come forward at the moment of extreme panic eighteen months ago—for there seemed to be no other means of moving the produce of the country. But their interference extensively with the last crop was of very questionable propriety, and their further interference now ought to meet the most determined resistance."

"The Bank of the State of Alabama has already announced its intention of dealing in cotton again, and on a plan which is especially objectionable. That bank has already so mismanaged its affairs as to throw the State into great difficulty, and if it is suffered to go on, the credit of the State and its merchants cannot be resuscitated. Specie payments will never be facilitated in this way."

The plan was put forth by the Branch at Tuscaloosa, apparently as an improvement on the scheme which the Mobile Branch had published in the previous January. It was dated August 29, 1838; proposed that cotton should be sent to the warehouses, the warehouse receipts being taken as vouchers; shipments at the expense and risk of the owner; to be made only to agents of the bank at Mobile, New Orleans, New York or Liverpool; sales to be made in four months. The owner must give for advances a bill at nine months with two endorsers; differences to be adjusted, if in favor of the bank, by a bill running not beyond the following February 15th. No advance was to be made for more than twenty-five per cent in excess of the value of the cotton when it was received; all exchange to inure to the shipper, the bank taking only one and one-half per cent. commission (later one per cent.). Advances might be made before the delivery of the cotton if the citizen was in danger of having his property sacrificed. If he will give proof of solvency,

* 2 Raguet's Register, 140; Corresp. N. Y. "Herald." † 54 Niles, 384. ‡ 2 Raguet's Register, 255.

and security to deliver cotton by February 1st, to cover a bill on New York running not beyond February 10th, the bank will buy such bill. The drawer, when he delivers the cotton, may take up the bill on New York by one on Mobile at nine months. If the cotton is not delivered, the bill to be sent to New York and protested.

We shall see below what the effect of this plan was on the bank which adopted it, but we may be sure that it was very popular at the time. It was considered a "liberal policy," and the bank which undertook it was thought to discharge its great function as a Bank of the State. In a case which grew out of it the Court said that it was strange that the error in the plan was not perceived that, in offering to advance more than the value, speculation and lawsuits were sure to be fostered. Some features of the plan are so strange that a great deal of familiarity with local and temporary circumstances seems necessary to understand them. The Court say that "the bills and the property are primary and concurrent securities," and add that the usual way formerly had been that the owner shipped his own cotton and sold the bill against it to a bank.* After the commercial revulsion came on this method seems to have been almost entirely abandoned.

The reason given by this bank, in its circular, for the plan proposed was, in order to get specie funds with which to resume.

A new Board of Directors of the Mobile Branch a year later abandoned the plan of these advances on cotton, because of the wild speculation which threatened losses. Of the notes received by the previous Board with endorsements for the fourth quarter of the assumed value of the cotton not a dollar had been paid.†

In June, 1838, a commercial convention was held at Richmond which recommended an increase of the banking capital and an extension of the means of communication, then being constructed, as essential means to the development of the South. The banks of the Gulf States "after having gone headlong into cotton, have turned their attention towards provisions. They have bought up nearly all the pork (in New Orleans) and their purchases in Cincinnati and other places have been on a monopolizing or forestalling scale. The article, in consequence, has advanced $6 per barrel. There have been more meetings in Mississippi to inquire into the conduct of the banks. The planters find that the depreciated currency will not pay for their supplies, unless at exorbitant prices, and that the high rates they received for their cotton was a mere delusion of the bank system."‡

As the season of 1838-9 opened attempts were made to make the cotton monopoly more comprehensive and more close. In a statement published a year later we find the situation and the program set forth as follows:

It is stated that Biddle had carried out his plan on the short crop of 1838, "by granting facilities to southern banks," but that for the following year, according to the principle of all monopoly, that the compass of the opera-

* 2 Alabama, 451. (1841.) † Bank Commissioners, 1839. ‡ 2 Raguet's Register, 29.

tions must be constantly increased, he "found it necessary to strengthen the southern banks which had, as his indirect agents, swindled the planters out of the cotton to be sacrificed in Liverpool at their expense; while they were compelled to receive depreciated and depreciating paper for their labor." The notes of these banks were at twenty-eight per cent. discount in 1838, and the banks must resume specie payment or they could not get control of the crop of 1839. "Under these circumstances foreign capitalists would have flocked to the South and purchased the cotton at a fair price, and thus, by throwing it into the Liverpool market, would have compelled Mr. Biddle to do the same, or borrow money and risk the market another year." Accordingly Mr. Biddle, in August and September, 1838, commenced rebuilding the southern banks that had engaged in the cotton trade; and he purchased the bonds of others to enable them to go into operation and to continue the cotton monopoly."* The officers of the Girard Bank and of the Bank of the United States bought the State and bank bonds, chiefly those of Mississippi, some of which were amongst those most hopelessly indebted to the federal government for the deposits. "In purchasing the bonds of these banks, Mr. Biddle and his compeers had other strong personal inducements. They had purchased an immense amount of their notes at twenty-eight per cent. discount, and by the operation were enabled to use it at par." These banks flooded the country with post-notes, issued for advances on cotton, at $60 a bale. "By thus holding back the crop, Mr. Biddle might be enabled to realize a large profit on the crop of 1837-38, which he had purchased, and in the meantime the planters of the South would be left to bear the whole of the loss from a falling market, after the monopoly had become too heavy for the credit system and the gambling system to sustain it any longer."†

We can follow the action of the Bank to "help the southwestern banks to resume" at New Orleans and in Mississippi. In June, 1838, the banks at the former place wrote to Biddle to ask him to help them to resume, on the following January 1st, by furnishing enough of his notes to meet the demand which otherwise they would have to meet with specie. September 8th, he answered that the policy of the Bank had been, for a year, "to defer the resumption of specie payments until it could be safe and general throughout the Union." It has tried to facilitate this by two measures: "first, by large loans to banks in those States where the difficulty of resumption was greatest; and second, by advances to the government whose disbursements are spread mainly over the South and West." "We are preparing a large amount of the issues of the Bank, which will be sent to New Orleans, with instructions to use them freely, not only in the immediate business of the Bank, but whenever they can be made to contribute to the defense of the banks of New Orleans." The banks of New Orleans were

* In his letter to Adams, December 10th, Biddle boasted that the Bank had made advances to the amount of many millions to the banks of the southwestern States to help them to resume.

† N. Y. "Evening Post," August 24, 1839; quoted in McHenry, "The Cotton Trade," p. 31.

perfectly satisfied and voted to resume at New Year. All that he had told them was that he was printing bits of paper with which to buy the great staple of Louisiana; that these bits of paper would presently appear in their banks and that they might keep them and use them "in the place of specie" as long as they chose.

In regard to the operations and influence of the United States Bank in Mississippi the Bank Commissioners of that State, in their report of 1838 on the Brandon Bank, said: "The [Brandon] bank purchased with New Orleans funds of the agent of Mr. Biddle $75,000 of the notes of the defunct Bank of the United States. By this transaction $7,500 was realized by the Brandon Bank. Mr. Biddle's agent, in consideration of receiving New Orleans funds for notes that no one was compelled to redeem, exchanged an equal amount of Mississippi River bank notes." If this traffic is allowed, why may not Biddle in another season send notes enough to buy the whole cotton crop with notes which no one is bound to redeem? "It is common to hear persons speak of the liberality of Mr. Biddle's bank and that the southern banks must rely upon him to enable them to resume specie payment. So far from his having given support, the banks of this State have, with one exception, suffered by their connection with him; for he has repeatedly dishonored checks with funds in his possession, and it is believed that he has bought up at a discount the notes of those banks that have confided in him, and placed them against the proceeds of sterling bills on which they had expected to check. We are strengthened in this opinion from the fact that the name of one of the persons who attached funds of the Brandon Bank in the possession of Mr. Biddle is the same as that of one of his agents in Philadelphia." Biddle said that he dishonored the checks of the Brandon Bank, although he held its funds far beyond the amount of the attachment, for fear that, if it was known that he held funds of the bank, further attachments would be made. The Commissioners do not accept this justification and imply that he wanted to lay hands on the balance "As he was preparing to resume about that time, perhaps he yielded to the law of necessity."

Wherever the investigator comes on any of the questionable banking or State financiering of the period, there he is very sure to find the United States Bank or some members of the Bank clique in the midst of it.

John Ingersoll issued a circular in Mississipi, October 22d, asking for consignments to Humphreys & Biddle, on which he would make a fair advance, for the purpose of holding the cotton over until the next summer, if desirable, in order to realize the highest possible price. Bevan & Humphreys published a denial that Ingersoll had any authority from Humphreys & Biddle, but they stated that all persons who would ship cotton to that house might draw upon them at sixty days for two-thirds of the price, selling the bills with the bills of lading in the open market at the current rate of the day.*

* 2 Raguet's Register, 379.

In New York it was said, at the end of November, that not a bill against cotton had been seen. The United States Bank was buying the cotton in the South and selling exchange in the North at 109 3-4 as a fixed price. At this time money was at twelve per cent. per annum in Philadelphia, and the Bank was depressing the exchange lest there should be an exportation of specie. "Money in New York and Boston is said to be abundant, owing probably to the banks in those cities having made their curtailments before the resumption. It is supposed that were it not for the Bank of the United States supplying the demand for bills on London at nine and a-half, the rate would go to ten or ten and a-half, in which case specie would be exported."* At Philadelphia the state of the case was quite different. The Bank of the United States issued a notice requiring fifteen per cent. to be paid on all stock notes every sixty days, and stocks were falling. Post-notes of the best credit were quoted at twelve per cent. per annum discount. Among the causes stated were: "The neglect of the banks before the resumption to reduce the amount of their loans to an extent equal to the excess which occasioned the depreciation of the currency, by which the proper check would have been given in time to importations and fresh speculations."† The New York banks were said to have loaned very carefully since resumption and to be in a very sound condition. There was no pressure on the merchants, who had made but few notes; but there was some complaint from the brokers, and stocks were low. It is very noticeable that this is stated by the same newspaper which in May had expressed doubts of the wisdom of the New York plan.‡

On account of the complaints which began be to heard of the action of the Bank, Biddle found it necessary to publish another letter to Adams, in which he rehearsed all the defense of the policy of the Bank in making a corner on cotton, representing it as done in the interest of the southern planters. He said that the operations had been relinquished, which was not true. Finally he withdrew the Bank from all functions as a national bank. It wanted only "repose;" "abdicated its involuntary power;" "it will take its rank hereafter as a simple State institution, devoted exclusively to its own special concerns."

In December the Liverpool cotton market was very dull and feverish. The spinners were alarmed at the speculation and, anticipating its failure and a fall in price, shortened work and diminished the demand. As the year 1839 went on, the developments in England were unfavorable. The crop failed, there was great distress amongst laborers, specie was exported, and prices fell. These facts were all unfavorable to an extension of credit, a revival of business, and an improvement in the price of cotton.

Biddle resigned the presidency of the Bank March 29, 1839. In his second letter to Clayton, in 1841, he says that the circulation, deposits, and other debts then amounted to $35.4 millions while the specie and the loans

* 2 Raguet's Register, 336. † 2 Raguet's Register, 368. ‡ N. Y. "Express" in 55 Niles, 225.

amounted to $42.9 millions. The Committee of 1841, however, say that the assets were already at that time to a large extent unavailable. The stock fell from 116 to 111 3-4. Thomas Dunlap was elected his successor. After his resignation an account was rendered by Bevan & Humphreys of the cotton operations, which showed a profit of $1.4 millions, on total transactions of $8.9 millions, which was divided, $800,000 to the operators, and $600,000 for the Bank. The $800,000 was drawn out between March 25th and May 22d.* In this year the Bank loaned $1 million to the State of Illinois. According to the contract, its ten-dollar notes were to be paid out on the Illinois and Michigan Canal. July 19th, it was allowed by a special act of the State Legislature to issue five-dollar notes for the sum of $2 millions, which it loaned to the State.

The year 1839 opened with a gloomy outlook in the southwest, especially at New Orleans.† In the spring there was great distress in Mississippi. A great deal of property was changing hands. The state of things was far worse than in 1837.‡ In June the post-notes of the Planters' Bank, which then fell due, were not taken up. The southwestern currencies were falling to heavier discount. The banks in the North and East were curtailing. At Philadelphia it was said to be the worst period since the panic. According to the news from England, in June, there was scarcely any market there for American securities.

In April, 1839, cotton was advanced one and a-quarter penny in Liverpool by sales on cross accommodation bills.§

In June the news from England was bad. The money market was stringent; the Bank of England was losing specie; there was less demand for cotton; and the mills were running short time or were idle; cotton was dull and lower; the Bank of England rate was five and one-half per cent.; and the bills for the speculative purchases in March and April were coming due.

A circular was issued by S. V. S. Wilder, in June, attempting to do more cleverly and completely what Ingersoll had tried the year before. It seems that the latter had blurted out the facts of the arrangement too distinctly. Wilder denied that the United States Bank had anything to do with his plan, which was false. The circular stated that cotton, by the latest advices, was dull and lower; that the English spinners were working short time, in order to get lower prices on cotton, since the great bull of the last year was out of the market. A grand combination to sustain cotton was proposed. Either the banks would advance enough to hold back the cotton for three months, or all might consign to one Liverpool house which should carry it until the present stock was worked off. In a conference at Philadelphia, the second plan was adopted, because, on the first plan, the market would not be provided with any bills of exchange. Advances of three-quarters of the

* Second Report of the Committee of 1841. See page 345.

† 55 Niles, 355.

‡ 56 Niles, 96, 114; Raguet, Currency and Banking, 157.

§ 56 Niles, 113, 293.

value, at fourteen cents a pound, were to be made on all that was sent to Humphreys & Biddle, who would "hold on until prices vigorously rally." If the crops should prove large the "great and powerful interest" would hold back the first supplies of it. This circular was unsigned and was not to be published, but it got into the newspapers and, the New York "Journal of Commerce" having traced it up to Wilder and the leading officers of the Bank, the former published a vehement denial that the Bank of the United States had anything whatever to do with it.* It was afterwards stated that this circular was written by Gen. Hamilton of South Carolina.†

July 20th, a meeting at Macon called a southern convention to deliberate on the cotton circular and the means of giving stability to the price of cotton. They had before them a circular from southern representatives at New York, in which it was shown that cotton was a regulator of the exchanges and a standard of value. It was resolved that it was necessary to combine the banks with the cotton producers; that the banks of the South should take bills of lading and insurance policies and give post-notes at twelve and a-half cents per pound, so as to hold the crop for a price, the whole being consigned to a few houses in Liverpool and Havre. Just at this time the "Manchester Guardian" declared that there was no market for the amount of manufactured goods which the machinery could make, unless the price was lowered; that the advance in cotton therefore stopped spinning. "The evil does not consist in the high price of cotton so much as in the general distrust of the stability of that price, which is produced by a knowledge of the speculative dealing in the United States." [In fact the crop was short, and if there had been no speculation, the price would probably have been higher than it really was when it was believed that a large amount was kept back. The supply for the last half of the year was twice the amount which had been used in the first half.] It is "one of the most rash and insane speculations of modern times."‡

Under the State charter the Bank paid four per cent. dividends every half year until July, 1839. It was apparently these large dividends which deluded the small investors, and made them cling to the Bank long after men of affairs knew that it was a mere shell. When it failed this class of investors and foreigners owned nearly all of it. Biddle had then only one share.§ It is hardly too much to say that the Bank never had any right to pay a dividend after the State charter was taken.

In July the rate for loans at Philadelphia was fifteen per cent. and eighteen per cent.; the United States Bank was contracting. Its stock was at 114. The Bank was still trying to control the sterling exchange; but at New York there was opposition to this policy and a shipment of specie was declared necessary.‖

At the end of August the money market in England was so stringent

* 56 Niles, 249, 258. † 56 Niles, 369. ‡ 56 Niles, 351.
§ Investigating Committee, May 18, 1841. ‖ 56 Niles, 337.

that there was almost a panic. Cotton was a penny lower, and Jaudon was in great distress. A report reached the United States that the Barings had announced in their circular of August 26th the expectation that he would fail. This was afterwards corrected. They did not do this, but they sent out a list of the securities which he had offered them as collateral for a loan which he wanted.* He was, however, writing most earnestly to Humphreys & Biddle, demanding money. They must sacrifice cotton at any price in order to sustain him. "Life or death to the Bank of the United States is the issue." The Bank at Philadelphia recognized and assumed the loss which was incurred, and urged Bevan & Humphreys to authorize Humphreys & Biddle to sustain Jaudon.†

The notes of the United States Bank of Pennsylvania were kept at par in New York by its ally there. Hence the Philadelphia brokers used them as a remittance. As the exchange was against Philadelphia, this must have occasioned a loss. In August, 1839, the Bank refused to keep brokers' accounts in order to try to break up this arrangement, although it was afterwards said that only one account was closed.‡ In fact, this incident had no importance except as a symptom of an approaching crisis.

From the 17th to the 24th of August, 1839, the Bank of the United States sold, in New York City, bills on Hottinguer which were forced on the market at a loss. As the Bank had no balance with him, and he had given notice that he would not honor any drafts unless he was covered, it was necessary to remit specie to meet the bills which were sold. Coin was demanded of the New York banks in order to make this exportation. On the 27th, the checks which had been obtained for the bills sold were presented in the banks at 2:30 P. M. with a peremptory demand for specie, a notary being present to make the protest. The purpose was to compel the New York banks to suspend in order to give the Bank of the United States a pretext for doing so. The total amount of these bills was seven million francs.§

September 1st, there was a great demand for loans in New York, Boston, and Philadelphia, and still more in the Southwest. The Philadelphia banks now had large amounts of the southwestern paper, which they had continued to take for goods but which they could not now collect. They lent post-notes to the merchants, which were sold in the other cities, thus absorbing capital elsewhere, which all went into the gulf of this southwestern debt. The post-notes of the Bank of the United States were at eighteen per cent. discount per annum; its stock at 104 1-2. At the end of September the United States Bank ceased to supply exchange, and the New York banks began to draw. October 1st, it was reported that the banks of New York, Boston, and Philadelphia had been moving specie to and fro.

On the 9th of October, the United States Bank failed on its home business, all the Philadelphia banks being exposed to a run on account of drafts

* 57 Niles, 277; 58 Niles, 72.

† Biddle's first letter to Clayton, 1841.

‡ 56 Niles, 375, 405.

§ 57 Niles, 119; 60 Niles, 121.

from New York. On the following day some of the drafts on Hottinguer came back protested. Jaudon had induced Rothschild to take them up for the credit of the Bank, ample security, as was then supposed, by State and other stocks being given.*

These proceedings were ruinous to the credit of the Bank. The Committee of 1841 say that on account of "the general derangement of affairs, the suspension of specie payments, and the discredit consequently thrown upon American securities, and more particularly from the course of the Bank's dealing in foreign exchange, by drawing bills to a large amount without having previously provided the funds for their payment, and thus subjecting their agent in London to the necessity of obtaining money in haste, in order to maintain the credit of the Bank, it was no longer found possible to command funds there upon the same favorable terms as before. And accordingly upon Mr. Jaudon's subsequent negotiations for loans, to the amount altogether of $12,212,697.46, there is chargeable to losses the sum of $1,149,907.04, being for discount, commissions to foreign bankers, and other charges; not including Mr. Jaudon's own commissions, and the expenses of the agency in London."

The stock of the Bank fell to 93 3-4; its notes were at eleven per cent. discount at New York. As soon as the disturbance produced by the Bank was withdrawn, things improved there, foreign exchange being at par.

The facts in regard to the proceedings of the Bank of the United States, at this juncture, if told by an enemy, might seem colored by malice, but they are stated by Cowperthwaite in a letter to Biddle, March 23, 1841. He says that a new crisis was anticipated in the fall of 1839, and "it was deemed best to make it fall first upon the New York banks." In fact, the great Bank had been vindictive ever since the resumption of 1838. Its leadership had been set aside. The New York banks had proceeded without it and usurped its functions. In 1839 it found itself sinking and it was driven to the most desperate measures inspired by malice and rancor. The United States Bank and debtor interest caused a meeting to be held at New York as late as October 23d, in order to try to organize a run on the banks.†

At this time the following very strong criticism and review of the proceedings of the Bank during the preceding eighteen months appeared in a New York paper:

"The suspension of 1837 found it [Bank of the United States], as it was generally understood, greatly extended in every direction, with many millions due from the South and the West and from the insolvent interests here and elsewhere, with many other millions invested in various internal improvements, and with the bonds for the sale of the branches of the old Bank for the most part uncollected, constituting altogether a large portion of its capital rendered wholly unavailable. Hence, as was believed, the reluct-

* 57 Niles, 97.

† 60 Niles, 121; 3 Gallatin's Writings, 404.

ance with which, after resisting to the utmost the exhortations and finally the example of New York, in 1838, in resuming specie payment, it came at last into that measure. But in order to do so, it, even then, is reported to have been largely a borrower, and up to the moment of its recent suspension it has continued the policy of borrowing and of extension, in the face of known losses, which the very silence observed concerning them and the withholding of all official reports, served in some sense to magnify, and when all knew that a large amount of its means was invested in inconvertible securities and consequently out of its own control."

Probably it expected by its policy more easily to collect its outstanding credits.

"If by an opposite course, the Bank on resuming had drawn together its scattered resources, and instead of buying or advancing on all sorts of stocks and cotton, and extending itself by new issues, it had paid off its own debts and confined itself to the legitimate objects of banking, the dealing in the regular business of the internal exchanges, and discounting safe mercantile paper, it seems hardly questionable that not only the Bank of the United States, but all the banks, South and West, would have been in a safe position; that the foreign exchanges would have been in our favor; and that the vast mischief which now surrounds us would have been avoided."

No doubt political and financial circumstances have made its management difficult, "but latterly even the government had made common cause with that institution, availed itself of its credit, and employed it as an agent for disbursing the public money. But this very connection, it may be, has rather served to stimulate than restrain its issues. Under all these circumstances it ceases to be matter of surprise that the bank has suspended its payments and dragged into its vortex so large a number of other banks that were more or less connected with or dependent upon it."*

The banks of Philadelphia having suspended on the 9th, those to the South and West suspended as fast as the news reached them. Specie was at seven per cent. and seven and a-half per cent. premium at Philadelphia. On the 12th, the United States Bank stock was at seventy, but on the 15th it had risen to eighty. In November it was at sixty-five. The banks of Rhode Island suspended but soon resumed; those of New Jersey did not suspend.

In the month of October, the New York and Philadelphia newspapers were in open war about suspension. The Philadelphians declared that New York could not maintain specie payment; that the pretense of it was false, and the merchants all ruined. The New Yorkers answered that it was doubtful if the Bank of the United States was solvent.†

The extracts from the New York papers, in October and November, show that the public then had ample reason to doubt the solvency of the United States Bank. In November the "Harrisburg Reporter" said that it

* N. Y. "American," October 16, 1839, in 57 Niles, 140.

† 57 Niles, 140.

was insolvent; in London its securities were unsalable, and its credit was broken.*

The New York banks were confident of their ability to sustain specie payments. "There is every reason to be sure that New York will go on well." The "American" said that the monetary stringency on both sides of the water was due to the borrowings of the Bank of the United States; that New York must persevere; that she would, if she kept a sound currency, become the center of home and foreign trade.† October 15th, the Philadelphia banks stopped redeeming their fives, having lost in five days $156,000 in that way. During 1837-8 the banks of Pennsylvania made dividends, although it was prohibited in the charters of most of them. After the suspension of 1839 most of the banks at Philadelphia resolved not to declare dividends until the pleasure of the Legislature could be known.

The monthly reports of the United States Bank to the Auditor-general were suspended from October, 1838. After its failure in October 1839, that officer demanded a return, and those for thirteen months were sent all together in November following. It is alleged in interrogatories put to the cashier in a suit by Kuhn against the Bank, on an attachment, that the latest one (November, 1839), showed a surplus of $4 millions, and that it was so published here, but that a committee in the Bank found that the surplus was only $1 million; it was so sent to Jaudon and published in England, and reprinted here. The post-notes were reported to the Auditor $900,000 more than to Jaudon. If these were subtracted the surplus would dwindle to $100,000.

October 11th, a meeting of merchants was held at Boston to confer with the banks about an extension of discounts. A resolution to suspend payment on notes of $5 and above was rejected. At a bank meeting on the 17th, it was resolved that the banks were able to sustain specie payments. On the 24th, the rate for first rate four months paper was three per cent. per month. The rate at New York was about the same. All the safety fund notes were discredited. Specie was coming from all parts of the country and being exported. On the 23d the banks of Philadelphia published an address to the public, in which they declared that the suspension of 1837 was necessary and proper; that all was going on well when New York prematurely resumed; that this forced the rest to follow; that Philadelphia had followed the correct policy in making loans to the South and Southwest; that the pretended resumption broke down in that section first. They then operate on the prejudice against the exportation of specie and against England, declaring that the banks could have paid specie but that it would have sacrificed the country around them to find means to buy food for the people of England.‡ This address well stated one view of the situation and of the policy to be pursued. Up to this time there had been hope and belief that the worst was over and that at any time prosperity might return, and it

* 57 Niles, 140, 209. † 57 Niles, 139. ‡ 57 Niles, 155.

is possible that, if it had not been for the insane policy pursued in the cotton region under the leadership of the Bank of the United States, things might have turned for the better before this time; but the failure of October, 1839, was the real collapse of the movement which culminated in the crisis of 1837, and of the policy in respect to it, which had now been followed for two years. From this point on there was no escape from a complete liquidation, which would require that the industrial movement should be brought almost to a standstill before it could start again.

The New York banks resolved, October 25th, unanimously, that they would maintain specie payments, but according to the report of the Bank Commissioners, January 24, 1840, there was a contraction of $20 millions in the liabilities of the banks, within ninety days. November 8th, the safety fund banks of Western New York met at Auburn and made a plan for the redemption of their notes at the State Bank at Albany.

October 22d a cotton convention was held at Macon, at which a further and still more complete organization was aimed at, but it does not appear that the Bank of the United States was any longer a party to the enterprise. The wish at that convention was to get strength enough from the banks to hold on for a year, and there were loud complaints that consignments had been sacrificed to meet sixty-day bills. In November, there was a slight advance in the price, which was not maintained, but the English mills were generally on full time.

In March, 1840, the New York "Express" said: "The cotton business has entirely changed this year. Last year a large portion of it was in the hands of speculators, who, in many instances, with small means, were able by advances to control a large amount. The season turned disastrous and swept this class away. The facilities that were afforded by the southern banks induced large shipments, which in most cases turned out ruinous. The consequence is that the staple is now left to its own intrinsic value. Shippers buy and export as appears most for their interest. Manufacturers purchase to meet the demand, and the business is thus perfectly regular."*

In regard to the last speculations of the Bank in cotton, we have the report of the Committee of 1841 as follows: The directors declared, December 21, 1840, that they had not known of the cotton transactions, and passed resolutions of "censure and condemnation." "The third and last account, amounting to $3,241,042.83 [shipments of produce to the Liverpool firm] appears on the books [of the Bank] as 'Bills on London; advances S. V. S. W.' These letters stand for the name of S. V. S. Wilder of New York. Messrs. Humphreys & Biddle, to whom these consignments were made, continued their accounts in the name of Bevan & Humphreys, but without the knowledge of that firm, as appears by Mr. Cabot's letter of December 28, 1840. The result of these last shipments was a loss of $962,524.13. Of this amount the sum of $553,908.57 was for excess of

* 58 Niles, 32.

payments by Messrs. Humphreys & Biddle to the London agency, beyond the proceeds of sale, with interest thereon. The parties interested claimed and were allowed a deduction for loss on $526,000 of southern funds used in the purchase of cotton, when at a discount, the sum of $310,071.30; and also this sum, being bankers' commission to Messrs. Humphreys & Biddle on advances to Samuel Jaudon, agent, $21,061.86; making $331,133,16, and leaving to be settled by the parties the sum of $631,390.97."



CHAPTER XIV.—Continued.

§ 4.—*The Banks in the States; 1837 to 1840.*

In reading this chapter it should be borne in mind that the decision in Briscoe's case was rendered in January, 1837.

In 1837-8, eleven banks failed in Massachusetts, nearly all in Boston or the immediate neighborhood, with $4 millions capital. The investigation of the affairs of these banks showed that they had violated the law in respect to the organization and management of banks. "We find bank directors indicted for merely signing a false return. How far would the grand jury have to go should the fourth section of the bank law requiring that the capital must be paid in in specie before a bank might begin business, be applied to the origin of every bank in this Commonwealth, particularly within ten years past? It is the gross violation of this section which has been winked at by the Legislature in receiving bank returns, that has laid the foundation of the worthless, broken banking capital of Massachusetts. The money has never been there, the capital has never been paid in. The hard earnings of industry, and the portions of widows and orphans who were deceived by Mr. Degrand's 'leetle word confidence,' have been actually paid in and not borrowed out by the owners of the stock; but this constitutes a small portion of the banking capital. The bulk of it has been made up of stock notes of the borrowers who got up the banks, put into its vaults bits of paper, and then drew out double or quadruple the amount in loans. Had the capital been actually paid in, in conformity to the statute, none of this trouble would have happened. * * * Our banks were manufactured by those who wanted to borrow all the fictitious capital they could create."*

A law was passed in Rhode Island, in 1837, to restrict the loans and discounts of banks to a percentage of the capital "together with the amount of the sums deposited with or due from them, bearing interest." For a bank

* Boston "Advocate" in 1 Raguet's Register, 308.

with $50,000 capital, the percentage was 180; for larger banks the percentage was less, until for those having over $400,000 capital, it was 130. A bank of $50,000 capital was allowed circulation to the amount of seventy-five per cent. of the base sum; one of more than $400,000 capital only twenty per cent.

Upon the suspension, the Merchants' Bank of Providence and the Rhode Island banks grouped around it fell heavily in debt to the Suffolk Bank. The president of the latter wrote to the Merchants' Bank: "I hope you will take measures to induce the banks of your State to reduce their circulation to their means of redeeming as early as possible." They did not comply, and in September, 1838, they were threatened with a return of their notes. In December a new arrangement was made, and the amount of over-draft allowed the Merchants' Bank by the Suffolk was fixed at $50,000, "with the understanding that, if the banks of that State could not keep themselves in a condition to meet this limit, the Suffolk Bank would decline to receive their bills."*

No bank failed in CONNECTICUT in this period. Legislation was aimed against the indebtedness of directors, which was limited, in 1840, to one-third of the capital for the whole body of directors of any bank.

NEW YORK.—Before the suspension of 1837, some banks in Albany had adopted the custom of buying country bank notes at a small discount and sending them home. During the suspension, the city banks gave the country banks time for redemption, according to distance. After resumption, this ceased. A voluntary arrangement was then made by which time was given to the country banks to redeem in New York funds and take home their issues at their own risk and expense, the city banks receiving the country notes at one-half or three-quarters of one per cent. discount. When the crisis came on in the fall of 1839, the city banks could not spare capital for this purpose, and the country notes depreciated. The country banks then arranged an exchange of notes at Albany; but the arrangement was imperfect and unsatisfactory because it did not include New York City. The Bank Commissioners, in their report of 1840, after reciting this history, go on to discuss plans for redeeming the notes at New York, in order to avoid exchange and produce a uniform currency. They say: "The vice of banking here, particularly in the country, has always been a tendency to investments in accommodation paper, and too great a reliance upon credit in carrying on the active operations of trade; and many able and experienced financiers consider it a fault of the system that its organization is such as to bring the borrower of money directly in contact with the bank which issues the currency. That its effect is to increase or diminish the amount of currency according to the supposed rather than the real wants of business, and that its tendency is to create a reciprocal stimulus between trade and banking, there can be no doubt."

* Whitney, 30.

The better writers on banking and currency in this country from 1820 to 1840 moved toward a concurrent opinion similar to that of Jones-Lloyd in England, although proceeding as much from considerations of profitable banking as from care for the interests of the note-holder, that it was expedient to separate issue banking from discount and deposit banking.

The general banking law of New York, of 1838, must be regarded as an outcome of this train of reasoning and reflection on the operation of banks. As early as 1831, a proposition of the same character was proposed in Maryland by C. F. Mayer.*

The Governor of New York outlined the plan and recommended it in his message of 1837. He thought that it would be necessary to pass the act by a vote of two-thirds of all the members of both Houses, because it might be construed as an act of incorporation for all the associations which might subsequently be formed under it. It passed the Assembly, 86 to 29, the democrats generally in the negative. The vote in the Senate was 20 to 8. A resolution declaring that two-thirds were necessary was defeated in the Senate.† The features of the law, which bore date April 18, 1838, are as follows: The Comptroller is to cause circulating notes in the similitude of bank notes to be engraved and printed, countersigned, numbered, and registered. Any association of persons for the purpose of banking who transfer to the Comptroller bonds of the United States, or of New York, or of such other States as he shall approve, shall receive from him an equal amount, in blank bank notes. The stocks are all to be or to be made equal to the New York five per cent. bonds. The bank is to execute and sign and may then circulate the notes. If any such bank fails to redeem any of the notes issued by it in lawful money of the United States upon a lawful demand, the note may be protested and the protest filed in the office of the Comptroller. The bank is then given ten days to pay. After that the Comptroller is to give notice in the State paper that all the notes of that bank will be redeemed by him out of the trust funds in his hands for that purpose. Interest on the bonds deposited is to be drawn by the banks owning them unless the bonds deposited become, in the opinion of the Comptroller, inadequate security for its notes, in which case it accumulates to make the security good. The banks may surrender their notes and take up the bonds. Instead of bonds, as above, bonds and mortgages upon real estate in the State, bearing at least six per cent. interest, payable annually or semi-annually, may be deposited for one-half of the total amount deposited by any bank. The mortgages must be upon unincumbered lands, independent of any buildings thereon, and worth double the amount of the mortgage. Nothing in the act is to be construed as a guarantee by the State of the notes beyond the application of the securities to their redemption. The banks are to pay the expenses incurred in executing this act. No bank may be formed under it with a capital of less than $100,000. Each bank

* 2 Raguet's Register, 400.

† 2 Hammond, 480.

shall make semi-annual reports to the Comptroller of its affairs under separate heads which are prescribed, and shall be liable to every note-holder to whom it refuses redemption at the rate of fourteen per cent. per annum from the time of refusal until the time of payment, by way of interest, and damages besides. No note for less than $1,000 shall be issued by any bank organized under this law, payable at any other place than its banking house. "No association of persons authorized to carry on the business of banking under this act shall at any time, for the space of twenty days, have on hand at their place of business less than twelve and a-half per cent. in specie on the amount of the bills or notes in circulation as money."

As soon as the free banking law was passed the chance to carry on banking was seized with avidity. Before the end of 1839, one hundred and thirty-four certificates of the formation of associations were filed. Seventy of the associations commenced business. Also certificates of three private individual banks were filed. $6 millions of circulation had been issued on bonds to the value of $7.1 millions. "During the influx of this new medium, in the absence of organization and concert among the new banks, it is not surprising that the emission should become somewhat depreciated, more especially when it is considered how extremely difficult it has been to preserve the safety fund circulation of the country banks from a like depreciation, notwithstanding an organization of years' standing and the great experience of the officers of these institutions, and the privilege of availing themselves to some extent of the aid of the State by receiving its deposits."*

When this banking law went into operation, the mortgages which were deposited as security were transferred in many cases to the associations by individuals, who insisted as a condition, being in necessity, that accommodation loans should be made to them at once on long time for nearly or quite all the value of the security deposited.†

Comptroller Fillmore declared, in 1848, that the act of 1838 was passed because bank charters had been treated as the spoils of party, which practice had become so shameless and corrupt that it could no longer be endured.

The question whether a two-thirds majority had been requisite to pass this law came before the Court of Appeals in 1845, and was decided adversely to the constitutionality of the law, and the corporations created under it were declared null;‡ but this decision was reversed a year later.§ In a similar case, under a law of 1837, in Michigan, subject to a similar constitutional restriction, the decision was that the law was invalid for lack of a two-thirds vote.‖

Among the banking curiosities of this period may be mentioned the following: In May, 1837, four persons were arrested in New York City, on suspicion of being counterfeiters. They were at work in an attic, printing notes of the Ottawa Bank of Montreal. They were indignant at their arrest,

* Comptroller's Report, 1840. † Bank Commissioners, 1841. ‡ 1 Denio, 9.
§ 2 Denio, 380. ‖ 1 Douglas, 351.

claiming to be a true bank. One was president, another cashier, etc. They had $20,000 in notes and $800 in silver, and explained that it was cheaper to get their notes printed in New York. They were discharged because they had violated no law.*

VIRGINIA was one of the States in which an extra session of the Legislature was called as soon as the suspension of specie payments took place. A stay law was adopted June 22, 1837, providing for a stay unless bank notes were received in payment. By an act of April 2, 1838, it was extended until April 1, 1839, and later there were further extensions until February 1, 1841. June 24, 1837, an act was passed for the relief of the banks, suspending all the penalties of non-redemption.†

A characteristic of the Virginia legislation was, that the laws for the relief of debtors and of the banks were repeatedly extended for short periods, as if they were enacted reluctantly and with a hope that the necessity for them would soon pass away.

The relief act was continued by an act of February 20th following, and later in the session still further extended until the end of the session; and the act to increase the capitals of the three old banks was suspended until April 1, 1839. April 2, 1838, the penalties on suspension were further suspended and the banks were allowed to issue one's and two's to the amount of four per cent. on their capital until April 1, 1839. These small notes, however, must be redeemed under a penalty of twenty-five per cent. damages. On the following day, severe penalties were imposed on savings banks, firms, and individuals for issuing notes under $5, all of which must be withdrawn.

The State subscribed to 4,500 shares of the Exchange Bank, March 19, 1839, by ordering the Treasurer to borrow the required amount on certificates of indebtedness having twenty years to run. Another loan was also to be contracted to pay the subscription to the Northwestern Bank. April 4, 1839, the Kenawha Bank was chartered. On the same day the banks were further relieved from forfeitures and penalties for suspension, and time was given to the Farmers' Bank, the Valley Bank, and the Bank of Virginia to accept the acts increasing their capital, and this act. All the old stipulations are rehearsed as if nothing had been learned in two years. April 10th, the limitations on the debts of banks to twice their capital were suspended until January 1, 1840.

At the next session, December 11th, all the penalties of suspension were further postponed until March 1st, but as a condition the power was reserved to the State to modify existing charters. Other acts followed during the winter, so that at last the penalties and the prohibition of small notes stood postponed until April 1, 1841.

BANKS OF THE STATE AND BANK WRECKING.—When a State borrows capital and lends it to a bank, the taxpayers incur the risks and obligations

* 52 Niles, 164.

† The acts of the extra session have not been accessible.

of stockholders. The interests of stockholders are antagonistic to those both of depositors and borrowers, while the interests of the two latter may be antagonistic to each other. In strong, sound, and well-conducted banks these interests come to harmony, and illustrate well the true relation between social antagonisms and social harmonies. It is the interest of depositors that the bank shall be as strong as possible, even to a degree which would make it impossible that it should gain anything. It is the interest of the stockholders to make the borrowers pay as much as possible and to pay to the depositors nothing. It is the interest of the borrowers that the bank should fail, since they could then buy its obligations at a discount and pay their own debts to the bank with them. The debtor interest, so soon as the high and correct relations of sound banking and currency operations are abandoned, is a bank-wrecking, currency-debasing interest. It is these facts which make the play of interests through and around a bank so interesting. The strongest currents of interest there are in the economic organization run through it. The financial machinery, of which banks are one of the most important parts, keeps all the parts of the industrial organization in due correlation, discipline, and order. This is why the coercion of the financial system produces, upon occasion, so much irritation; it is also the reason why the banks, if they fail of their function, do so much mischief.

The great Banks of the States illustrate the truth of all these remarks. The debtors and taxpayers were at war. The latter were generally opposed to the bank schemes when they were first proposed, but were sometimes deluded into acquiescence by the hope of profits which would do away with the necessity for taxation. In time, when a great body of debtors had been formed around a bank, and when a large group of politician bankers had come into existence, the Bank of the State became a formidable political power. Two factions were then formed. One wanted to make the bank profitable. The other wanted to use it for "higher" purposes; to "develop resources," to "accommodate," to "give equal facilities," etc. This latter series of hollow and high sounding phrases meant that it was to be sacrificed to its debtors. When crises arose, "relief" was called for, which always meant wrecking the bank that the debtors might be relieved from their obligations to it. Politicians sought popularity by bringing about that result. All these measures involved oppression to the taxpayers, but taxpayers are the one group who can be oppressed without exciting sympathy and almost with impunity. When the whole folly was over, they still had the bonds to pay, for the bonds were extant somewhere bearing the seal of the State.

If the taxes were repealed, and the State tried to live on the bank, perhaps at the same time with all the preceding—loading it up with payments for interest on the debt, for "education," for "internal improvements," etc. —the ruin was manifolded and hastened. As the president of the Bank of Tennessee set forth to the Legislature in 1845, they could not expect to live on the bank and plunder it too.

All the Bank of the State schemes rested upon a notion of the "credit" of the State as a metaphysical entity which could be called upon to do the work of capital, although capital cannot be produced without labor and frugality. This introduction into finance of the political glamour which surrounds the "State," and which has done so much mischief in politics, was a multiplication of evils. That there may be "psychological elements" in finance is true enough, but it is well to analyze them rigorously when recognizing their existence. Confidence operations and swindles of all kinds would have comparatively little chance, if it were not for the psychological element, and it does not appear that that element has any place except amongst the dangerous delusions. As to the State and its credit we can define it rigorously. The State can tax its subjects, and can deliver the product to those who have acquired a right to it under such contract as may be made. The State can promise to do this, may be believed, and acts may follow which are beneficial according to the plan which was the motive of the State's promise. This is the nature and limit of the credit of the State. The Bank of the State schemes assumed that the prestige of the "State" could be coined into food and clothes; that the imposing attributes of political power could do the work of an actual development of labor into product; and that, if the State talked about what it would do, never meaning to do it, all the same results could be obtained as if it did it. In politics we are very familiar with the notion that "resolutions" are effective social and political forces. They are used to make one set of people believe that they are about to have their wishes gratified while, at the same time, those who seem to be committed by the resolutions to some irksome responsibility are reassured by being told that they will not really have to do anything. Of course somebody is duped. The Banks of the States were attempts to transfer this method of operation to finance, but when capital is at stake the fact that somebody has been duped means that a vulgar crime has been committed. The most far-reaching vice in all these bank schemes was that they led the people to believe that the methods of a "boom" could be successfully employed in the place of the methods of thrift, and their most far-reaching corruption and demoralization lay in the fact that, in practice, they only offered a chance for a favored clique to win at the expense of the community.

To return for a moment to the antagonisms of the groups which have relations through a bank, it should be added that in stock banks which were formed with stock notes and were run for paper-mongering, the stockholder-debtors were the worst bank-wreckers of all. When they had used their bank to get possession of capital, often the best thing they could do with it was to ruin it. The greater the depreciation of its notes the more lucrative the traffic in those notes for the bank itself. When the notes had been bought up and the debts to the bank paid with them, the operation had raised their value. They were then put out again at a distance and the operation repeated. When the reputation of the bank was utterly lost, the

stockholders paid their debts to it with their stock at par, slipped out, founded another bank and began again.

GEORGIA.—The Marine and Fire Insurance Bank was forbidden, December 23, 1837, any longer to do banking unless it should renounce insurance, and agree to pay the note-holders ten per cent. damages in case of non-redemption. The next day the Central Bank was ordered to borrow for the State $725,000 with which to meet the expenses of 1837. December 26th, the Bank of Brunswick was allowed to increase its capital to any amount which it should expend on the Brunswick and Florida railroad, not to exceed $3 millions. At the same time the Central Bank was authorized to borrow $150,000, "to carry out their distributions to the several counties not yet provided for."

It was also enacted that no bank should issue any note payable otherwise than in gold or silver, upon which the Supreme Court of the State afterwards decided that a certificate of deposit payable "in current funds" was unlawful.*

A free banking act, like that of New York, was enacted December 26, 1838. December 28th, the Central Bank was directed to extend the loan contracted by it the year before, or to borrow $600,000 for State expenses. Its charter was extended until 1850.

The charter of the Central Bank limited its issue to the amount of its capital, but an act of December 21, 1839, authorized it to issue twice the amount of its capital. It need not pay specie to the agent of any suspended bank. The stocks of the State in the Bank of Augusta, Planters' Bank, Bank of the State of Georgia, and Darien Bank were ordered to be sold for not less than par and the proceeds to be put in the capital of this bank. An appropriation act of the same day ordered this bank to put to the credit of the Treasurer enough to enable him to meet the warrants on him, "charging the same to the capital stock of said bank," and to furnish him with its own notes or current notes with which he might pay the current demands on him. December 23d, no bank officer of a suspended bank might sell any bill of exchange payable within the United States after March 1, 1840, for more than two per cent. premium, under penalty of imprisonment for between one and four years. This was repealed a year later. Banks were also ordered to report the indebtedness of directors and stockholders.

The Central Bank was ordered, December 19, 1840, to pay the scrip issued by the Western and Arlington railroad, except such as was made payable in State bonds. December 18th, all the banks were ordered to resume January 1, 1841, or their charters would be annulled. Also, if they failed to do so, their notes might no longer be received by the State Treasurer or the Central Bank, the notes of the latter alone being receivable for dues to the State and to itself. This act was held to have condoned suspension and saved the charters.†

* 21 Georgia, 297.

† 1 Kelly, 27.

FLORIDA.—In the Constitution, which was framed in 1838, it was provided that no person should be eligible to the office of Governor, Senator or Representative while he was an officer of a bank, or for a year after. No bank charter or other act of incorporation was to be granted for more than twenty years, and no bank charter ever to be extended. An article was inserted limiting at length the business which a bank might do. No bank was to have a capital of less than $100,000, consisting of specie actually paid in, nor borrow any addition to its capital, nor loan on stock, nor owe more than double its capital stock; nor make a note or security of any kind for a smaller sum than $5, which restriction the Legislature might raise to $20; nor pay more than ten per cent. dividends; any greater profits to be retained as a surplus; the stockholders were to be individually liable, upon dissolution, expiration, or forfeiture of the charter; banks were to be inspected by a Commissioner at least once a year; and to make quarterly returns of their condition to the Governor. "The General Assembly shall not pledge the faith and credit of the State to raise funds in aid of any corporation whatsoever."

The District Attorneys were authorized and directed, March 4, 1839, to secure a forfeiture of banking charters, where forfeiture had been incurred, by *non-user* or otherwise.

The people of Florida now repented of their bank enterprises. The next thing to do was to throw the loss and blame on somebody else, and they set about it with a naïveté equalled only by that with which they had plunged into banking.

The Committee on the Judiciary, in 1840, raised the question of the validity of all the acts of incorporation which had been enacted by the Territorial Legislature. It gave a history of the legal question on this point. Kent, Binney, Peter Jay, and Webster had affirmed that the Territorial Legislature had such power.* The banks had already obtained from the Territorial government and issued $3.9 millions guaranteed bonds, and they claimed to be entitled of right to $5.6 millions more. The total population of the Territory in 1830 was 34,730; in 1840, 54,477.

The charter of the Union Bank, in 1833, as first passed, contained a clause that it should not be in force until approved by Congress. The Governor vetoed it until that provision was stricken out. This Committee of 1840 turn the matter in the other light, and claim that the people in the Territory are entitled to the protection of Congress. They propose resolutions that the Territory has no power to charter banks or to issue bonds to or for them, and that the pledge of the faith of the Territory is null and void. They refer very guardedly to repudiation, which had not yet been openly discussed anywhere, although their argument led up to it; but they state their purpose to be to prevent the issue of any more bonds to the banks.†

* The Supreme Court of Louisiana affirmed the power of the Territory of Orleans to incorporate a Navigation Company. (11 Martin, 309, 1822). See pages 53, 60, 248.

† Treasury Report, March 3, 1841.

The Governor, in his message of 1840, uttered the earliest and most bare-faced defense of repudiation to be found in the literature of that subject. "So far from there being bad faith or a want of honor or honesty in repudiating these bonds, it is entirely consistent with good faith thus to deal with them. They were obtained through a legislation partial and unjust. What right has a few hundred stockholders to make the whole people tribute to their schemes of moneyed aggrandizement? Why should the holders of these instruments be longer deceived? They possess bonds which they never can collect from the Territory. It is proper they should distinctly understand this truth. It is to their interest to take the security which the bonds and mortgages of individuals afford and relinquish 'the moonshine' in the shape of Territorial faith, which when they attempt to touch, will elude the grasp."

Default was made on the interest of the bonds which had been issued to the Bank of Pensacola, in January and July, 1840. The agent of the Bank of the United States in London paid the amount, $30,000, to save, as he said, the honor of the Territory. The United States Bank clique formed the Pensacola Association which took these bonds. They sold them, agreeing to pay the interest in London. Governor Call, in his message of 1842, described this transaction sarcastically, saying that Jaudon was one of those who were responsible on the endorsement, and hence that he was guarding his honor, not that of the Territory. He went on to say that the bank, instead of building a railroad, as it was bound to do in consideration of the bonds, had removed and sold the materials for the railroad to the value of nearly $275,000. He ended by proposing that another bank should be founded on a specie basis.

The Union Bank petitioned the Legislature, in 1841, for permission to sell below par 704 territorial bonds which it held. The Committee on Banks reported favorably, connecting the concession with proposals for reorganizing the bank so as to separate the Loan Office from the bank. The Legislature peremptorily refused the petition.

The Bank of Pensacola became extinct in 1842. Its paper ceased to circulate; its assets had either been squandered or removed from Florida. In the same year the Union Bank ceased to pay the interest on the bonds issued to it. Its circulation had been reduced to $92,000; but was at two or three for one in specie. The Life and Trust Company's notes were still worse, but there were not many of them. It returned the one hundred and fifty bonds which it held. The Governor hoped that it would retire all the bonds issued for it.

ALABAMA.—The Bank of the State and its branches were authorized, June 22, 1837, to issue notes "of less denomination than $5." These banks were not to issue any notes under $5 nor receive any such, except their own,—that is, none from out of the State. June 30th, an act was passed with a preamble: "Whereas the Bank of the State of Alabama and its several branches have recently suspended specie payments, and whereas it is

believed that said suspension has been produced by causes beyond the control of the president and directors of said banks in the exercise of ordinary prudence and caution;"—the suspension was therefore approved and sanctioned and the laws against it were suspended. All debts to the banks were divided into three installments, twenty-five per cent. to be paid between March and June of 1838, thirty-seven and a-half per cent. between March and June of 1839, and the remainder between March and June, 1840, with interest at eight per cent.; but every debtor who has $2,000 so extended shall have no accommodation until he pays, and he who owes less than $2,000 may apply only for the difference between his debt and $2,000 in the way of further loan. The banks are to require new security. Debts on foreign bills of exchange are excluded. The Bank of Mobile and the Planters and Merchants' Bank are allowed to suspend until June 15, 1840, unless the State Bank resumes sooner, and provided that they accept this act and the other acts of this session; otherwise, forfeiture. The Bank of Mobile, when it resumes, must withdraw all notes under $5. All the banks in the State are required to buy, before July 1, 1838, specie to the amount of one-eighth of the capital; within the next year, one-eighth more; within the next year one-fifth; and within the fourth year one-quarter. This much specie they must have on hand and keep it. The Governor, Treasurer, Comptroller, and President of the Bank of the State are directed to issue six per cent. State bonds at two, four, and six years, in equal divisions, to the amount of $5 millions; $1 million to be deposited in the State Bank at Tuscaloosa, and $1 million in each of the branches, to be sold when it may be done at par, in aid of the capital of the banks, to the extent of one-half the amount for specie; the other half to be deposited in banks in New York. The note issues are to be kept up to the amount of the capital and these bonds together. In the apportionment of loans regard is to be had to the population of the counties. The banks are to discount "transaction notes" in payment of debts to the banks until March 1st, at seven per cent., not more than $2,000 to one borrower, with two good sureties, payable in one, two, and three years. The annual payments on these debts are to go to cancel the short bonds; the faith and credit of the State are pledged for the increased circulation. Every mortgage under this act is to contain a power of sale, and a default on one installment makes the whole due.

This act entailed more trouble and misery on the State than any other that was passed before the civil war. It was called the "Extension Law."

The Commissioners to examine the Bank of the State, in 1837, reported that they could not balance the account of bills of exchange, the vouchers being in confusion, part of them in old receipt books of the bank attorneys since 1826. They could not find out the amount of bad debts, but thought it larger than had been reported; they had not had time to examine the account of notes discounted, but had no doubt that it was in the same condition as that of the bills of exchange. In the following year the branches

were quarreling with each other, being almost entirely independent of each other, and not controlled by any central authority.

The Mobile branch was authorized, December 23, 1837, to increase its issues one-fourth more than was allowed by the act legalizing suspension; the increase to be used in advances on cotton at not more than three-fourths of its value.* On the same day the State officers were authorized to issue State bonds for $2.5 millions, in sterling, at five per cent., for twenty years, to be sold for specie; the proceeds to be deposited in the Bank of the State and branches, in equal shares, in aid of the capital. On the same day, also, a limit was set to the indebtedness which the president or any director might be under to the branch of which he was an officer. Any one who owed any branch $35,000 was ineligible as a director, and an oath must be taken by every candidate. Three Commissioners were to be appointed, in January, 1838, and annually thereafter to visit the Bank of the State and its branches twice a year. The president of each branch was to make monthly reports to the Comptroller, who was to publish them. The provision for Commissioners was repealed at the next session.

The report from Mobile, September 28, 1838, was as follows: "The State Bank and its branches, it is said, are to have a meeting on the 1st October, and if the Tuscaloosa Bank can be made to give up her absurd plan of advancing on cotton,† and come into the measure of resumption, but little notice will be taken of the two banks in the northern part of the State. We think everything looks fair for resumption, and on Monday next we shall get clear of shinplasters." "If the thing [resumption] is practicable, why are they [the other banks] to be deterred from the step by the injurious and mischievous speculations into which the Tuscaloosa branch chooses to enter? Are the people forever to be oppressed and cursed with a depreciated paper, to enable bank directors and their favorites to job in cotton and fatten on bank agencies?"‡

"Stripped of all disguise, we ask, what is the proposition made to a sensible public? It is that the people at large shall continue to suffer the dishonor, the embarrassments and positive losses of a depreciated currency, in order that the debtors to the banks may make use of that currency to pay their debts. It is to tax the solvent, and enact a stop-law in favor of the embarrassed and insolvent—it is gross favoritism—to those to whose imprudences the State is indebted for its afflictions, at the expense of rank injustice to those who have not been seduced into engagements totally beyond their power to meet."§

It was required, February 1, 1839, that the cashiers of the Bank of the State and branches should report to each Legislature the indebtedness of the president, directors, and members of the Legislature, to each bank, and also a list of debtors' endorsers, and amounts of debt, by counties. These laws

* See page 298. † See page 297. ‡ 2 Raguet's Register, 252.
§ The Mobile "Register," in 2 Raguet's Register, 349. November, 1838.

may be taken as evidence that these banks were in the hands of cliques consisting of their officers and leading members of the Legislature.

The banks of the State resumed January 7, 1839, but the Mobile branch was forced to suspend again February 2d, having paid out $217,987 in specie, besides checks on New York and New Orleans for half a million.* February 2d, it was enacted that the Bank of the State and branches should take for debts all bank and post-notes which had been issued by them, and they were forbidden to take interest in advance on loans under the act legalizing suspension. They were also ordered to require, on payment of the installments of the extended debt, only such amounts as the condition of the bank might compel them to call for. Those debtors who have not paid the first installment of the extended debt are allowed still to do so, and to give notes with security for the other installments to be paid as provided in the extension law. A Board of Control to govern the Bank of the State and branches was also constituted the same day, to consist of the Governor and the presidents of the bank and branches. It was now provided further that paper not having more than one hundred and twenty days to run might be discounted for persons who had taken the extension; but the proceeds were to be applied on the extended debt. The banks were directed to settle with their collection attorneys three times per year. Any president or director who was under protest for ten days was to vacate his place. The president and directors were made exempt from "working on the roads" and from jury duty. No corporation might tax the Bank of the State or its branches. On the same day it was further enacted that any one who issued currency without authority, or signed or passed the same, should be subject to a fine of not less than $100 nor more than $500. Any partner or stockholder was made liable to the note-holder. Passing a note was construed as endorsing it.

The Commissioners to examine the Mobile Branch, in 1839, approve heartily of the policy of the New Board in abandoning the advances on cotton.† They are most concerned about the possibility of collecting the loans. "The amount of bills under protest, on the 19th November, 1838, was $990,330.04. On the 18th November, 1839, they amounted to $3,345,374.88. We know not whether this extraordinary increase has been produced by the necessities of the times, or by the hope of extraordinary indulgence from the Legislature. So many individuals have a deep interest in preventing the collection of this debt, that the utmost caution, virtue, and firmness are now required in the selection of the agents to whom this great trust shall be committed—whether they be the ordinary Board of Directors, or extraordinary commissioners chosen for this purpose."

In 1839 an attempt was made to prevent the United States Bank of Pennsylvania from doing business in Alabama. This raised the question of the right of a corporation chartered in one State to do business in another.

* 55 Niles, 385.

† See page 298.

That right, with some limitations as to banks, was affirmed in United States Bank *versus* Primrose and the other cases decided with it.*

MISSISSIPPI.—The "Free Trader" said, July, 1838: "Against the banking institutions of Mississippi we find the voice of their former warmest and most devoted friends becoming loud, indignant, and denunciatory. Every day only increases public imprecations against their unscrupulous swindling." "They [the banks of the State] must raise the value of their paper, and they must do it soon. There is no time to be lost." "In Lauderdale County, on the night preceding the time for the opening of the spring term of the Circuit, the court-house was burned down. The Judge, unwilling to be thus baffled, determined to hold the court in some other building, but the Sheriff resigned. The duties then devolved on the Coroner, but he too resigned; and the Judge was actually obliged to go home and leave the litigants to take care of themselves."†

The Brandon Bank determined, April 10, 1838, to redeem its circulation with seventy-day post-notes payable in Philadelphia.‡ From the report of the Bank Commissioners in 1838, we get the following exposition of the proceedings and status of the Brandon Bank. In the statement of this bank the individual deposits appear under the resources to the amount of over $90,000. The reason was because persons who delivered cotton to the bank would not give notes when the amount received was less than the value of the cotton. The amounts thus appeared as over-drafts. "Their agencies exercised all the powers of a bank of discount, thus giving a locomotive character or the principle of ubiquity to the Brandon Bank."

The bank intervened to give credit to planters who had put their cotton in its hands so that they could buy provisions. The Commissioners reckoned its profits for the year at fifty-one per cent. of its capital. If it is allowed to buy its own depreciated paper they will be much greater. "The mode by which such enormous profits are realized without other capital is very simple. A charter is first obtained from the Legislature. A small portion of stock is to be paid in before the bank goes into operation. A few honest planters desirous of promoting the improvement of the country, which the bank promises, take stock in good faith and pay it up in *bona fide* capital. Those, however, who are experienced in these matters pay up as little as possible, but as the latter are financiers they are elected to manage the bank. They soon discount paper for themselves and other stockholders of financial abilities. With this they buy more property to secure more stock, to get more discounts, to buy more property, to secure more stock, etc., etc., and finally they are able to write up a very respectable capital upon which they are permitted to issue double the amount. * * * So long as a few men can draw a profit of more than fifty per cent. from the labor of the country for merely writing their names on a slip of paper, promising to pay their own bank any given amount, it is natural that they should endeavor to

* 13 Peters, 519. † 2 Raguet's Register, 43. July 1838. ‡ 1 Ditto, 379.

protract their harvest. They could not be expected to know any limits but those of human gullibility and endurance. * * * The history of civilization affords no evidence of any device so simple and so efficient in reducing a country to vassalage as these principles of banking."

"The practice pursued by the banks in advancing $60 a bale on cotton or $40 on the present and $20 on the coming crop is the principal cause of the great depreciation of our bank paper. Every dollar beyond the real price of the cotton was surplus and may be fairly adopted as the standard to measure the loss sustained by the country in the depreciation of the circulating medium. The banks made their discounts and the speculators who borrowed from them were enabled to change their creditors and protract the payment of their debts by the operation; but as soon as the paper passed into the hands of the community it depreciated, being inconvertible; the $60 would not pay for more pork or other necessary articles of consumption than the real value of the cotton would have purchased. The surplus circulation, therefore, was a total loss to the community. * * * No State in the Union was more deeply injured by an extended currency than Mississippi." The depreciation doubles the cost of production without increasing the value of the cotton which must be exported. The ten directors of the bank have borrowed from it nearly $600,000; six of them have mutually endorsed for each other, so that the total liabilities as endorsers are over $2,600,000.

In November, a convention of the banks of Mississippi was held to agree upon a time for resumption; but they adjourned without agreeing.

The Commissioners to sell the Union Bank bonds, in 1838, were ordered in their commission not to sell them for less than par in current money of the United States. A select committee of the Legislature which reported on them in 1842 said that these Commissioners proposed to Biddle to make the bonds payable in London at four shillings and sixpence, although they also say that Biddle made this an indispensable condition. He agreed to pay $5 millions, lawful money of the United States, in five equal installments of $1 million each; the first four payments to be made in New Orleans and the last payment in Natchez, in July, 1839. It was agreed that the bonds should bear interest from their date, but Biddle was not to pay the accrued interest. His contract was guaranteed by the United States Bank, whose charter did not specify, amongst the things which it might do, the purchase of State stocks. The Committee of 1842 maintain that *par* means face and accrued interest. Biddle actually paid $5 millions; $1 million in specie; $150,000 in notes of the Merchants' Bank of New Orleans; and the rest in exchange on New Orleans, on which the bank realized a premium.

In his message at the opening of the Legislature, January, 1839, Governor McNutt complained of the behavior of the Planters' Bank and the Union Bank, which had refused to allow themselves to be examined by the Bank Commissioners, on the ground that the latter were not judicial officers; also because the Union Bank had issued depreciated post-notes whereby the borrowers had been forced to pay at the rate of twenty-two per cent. per annum.

In view of the complaints that were made that the Bank of the United States was not in due submission to the federal authorities, it is interesting to note the behavior of the State banks to the State authorities. The banks of the States, in which the State owned the whole or a large part of the capital, were the most recalcitrant and defiant; so that it seemed to be a rule that the nearer a bank was to the State authorities, the less the State was able to control it. The Planters' Bank received the State deposits in a better currency and bought Brandon notes with which it paid the State creditors.* The banks of Mississippi generally responded to the Bank Commissioners in impudent terms.†

The following is from the report of the Bank Commissioners, January, 1839: "This company [Bank of Vicksburg] purchased pork in Cincinnati and Louisville at $13 to $14 per barrel, and sold it in Vicksburg at $28 to $32, and in New Orleans at $27 per barrel. The price of pork was raised in Cincinnati and Louisville, in less than two weeks, from $13.50 to $17 per barrel. These purchases were made with the date checks, which gave the company ample time to realize on the sale of the produce, and meet the checks without the investment of a single dollar of actual capital, of which they possess, *bona fide* but $120; the $100,000 [shown as capital] having long since been returned to New Orleans, where it belonged."

This State now entered on the same course which we have noticed in some of the others. It began to use up so much assets as it possessed from its earlier operations. By a law of February 15, 1839, the 20,000 shares owned by the State in the Planters' Bank were transferred to the Mississippi Railroad Company as subscription for its stock. The Mississippi Railroad Company was incorporated to build certain railroads. It built about twenty or twenty-five miles and then failed. The net returns from the railroad were $5,000 or $6,000.‡

A special examiner made the following report in December, 1839: "Nothing can arrest the Agricultural Bank in its ruinous course but the prompt interference of legislative power. It has existed in continual disregard of the law, as exemplified in its traffic in cotton, in its sale of post-notes, and in paying out Brandon Bank paper as money for notes discounted at its counter, when the said paper was at thirty-five per cent. discount. To terminate such gigantic frauds on the public, and to compel the bank to do equal justice to its debtors and creditors, it ought to be wound up and its charter abolished."

The message of Governor McNutt, January, 1840, was chiefly about the Agricultural Bank and the Planters' Bank. After showing what a bloated and rotten concern the former was, he said that both were indebted to the United States and were under bonds to pay at a set term. The Agricultural Bank had refused to answer the questions put by the special agent who was appointed to investigate it. As the Governor said, the bank used two rules

* Treasury Report, April 9, 1840, p. 591. † Ibid, 605. ‡ Johnson's Report on Assumption, March 2, 1843.

at its convenience—what the charter did not forbid and what it did not impose on them. The United States District Attorney being instructed from Washington to examine the security which these banks offered, was apparently not satisfied. He obtained as collateral a large amount of their bills receivable. McNutt was afraid that he would put the bonds in suit in the federal court, and thus escape responsibility to the State institutions. He thought that the remonstrance of a sovereign State would not be unheeded, and he proposed to the Legislature to memorialize the federal government to remove the District Attorney. The suits were postponed by the intervention of Senator Walker.

In the references in this message of the Governor to the Union Bank there is as yet no repudiation. The same may be said of the report of a legislative committee at this session, although complaint was made of the terms on which the bonds had been negotiated. The committee stated that the losses of the Union Bank would be immense, and it was already evident that the State would have to pay the principal and interest of the bonds. Their argument is all directed to the point that the rest of the bonds should be withheld from the bank. They attributed the bad management of the Union Bank to the eagerness to provide "relief." "When a community, by speculation, over-trading, and inflated prices, has become deeply involved, greatly increased banking facilities only increase the violence and malignity of the disease."

LOUISIANA.—A committee of the Legislature made a report, March 14, 1838, from which it appears that twelve directors of the Gas Light Bank owed to it, December 23, 1837, $1.4 millions, as drawers, and nearly $400,000 as endorsers. Hermann, Briggs & Co. stand first on the list, debtors for a half million. The committee find that a large part of this indebtedness was for "kites or race-horses," and that exchange operations to a large amount had been agreed to by the president, in which he was himself interested, when no one but the cashier and himself were present. The bank owed the Bank of the United States $2 millions, payable in one and two years.*

A statement of the condition of the sixteen banks of Louisiana, December 23, 1837, showed that they held undivided profits, $6.2 millions; protested paper on hand, $2.8 millions; besides $1 million held for account of the Bank of the United States. The total capital was $30.9 millions; the deposits, $7.4 millions; the circulation, $7.5 millions; the specie, $2.7 millions.†

The banks of Louisiana resumed about January 1, 1839. A healing act for the suspension was passed March 14th. This was not to be construed as authorizing any future suspension; weekly balances were to be paid between the banks.

TENNESSEE.—The Southwestern Railroad Bank was chartered by Tennessee December 5, 1837. The fourth Bank of the State of Tennessee was

* 1 Raguet's Register, 332.

† 1 Raguet's Register, 270.

chartered January 19, 1838; capital $5 millions; all the school fund, the federal surplus revenue, and all the credits of the State were to be put into its capital, and the remainder was to be raised by bonds on the faith of the State. That part of the federal surplus which had been deposited in the three existing banks was to be paid over within two years to this bank. Six per cent. thirty-year bonds were to be issued to the president of the bank; the bank was also to negotiate bonds issued for internal improvement companies. The Governor, with the confirmation of the Legislature, was to appoint twelve directors; term of the charter, 1868; dividends to go to schools; lowest note $5; after January 1, 1841, $10; notes receivable by the State; the head and three branches to be in Middle Tennessee, two branches in the west and two in the east; the bank to pay interest out of the State dividends on the State bonds issued to internal improvement companies, which are also provided for in this act. It is enacted in general that the State shall take half the stock in any such companies which have been or may be incorporated. The president of the bank, in his report of 1839, said that there appeared to have been two motives for the establishment of the bank; one, to give relief, which required that its issues should be proportionately distributed over the State; the other, to provide a sound currency, assist commerce, education, and public works, by making large dividends. These purposes were somewhat antagonistic. The branches had been established with a view to the former purpose. Another president, in 1845, said that its profits had been sacrificed by the locations selected for its branches.

This bank apparently began under suspension June 27, 1838, for it was announced that its post-notes would be redeemed in specie as soon as other banks in the State should commence specie payments. On the 5th of December specie at Nashville was at twelve and thirteen premium.*

Its issues were pleaded against as bills of credit, but were held to be covered by Briscoe's case.†

OHIO.—At the session of 1835-6, the United States Bank of Pennsylvania was forbidden to have any bank or banker as its agent in Ohio; the penalty on a bank which should act for it, $10,000, on a banker $1,000. It was made unlawful to circulate its notes; penalty $1,000, and any officer employed by the Bank was made subject to a penalty of $500. Action might be prosecuted by any citizen. This law was repealed January 26, 1838, but another law was passed February 9, 1839, making it unlawful for any bank or agent to act for that Bank or for any other bank, incorporated by any other State or by the United States. No foreign bank might establish an agency without the consent of the Legislature, and it was made unlawful to act as the agent to put the notes of such bank in circulation.

No State ever seemed to struggle so hard against unauthorized notes as Ohio. All unincorporated companies were forbidden, February 16, 1838, to issue notes without authorization. Any incorporated company which issued

* 1 Raguet's Register, 222.

† Craighead *versus* the Bank of Tenn. 1 Meigs, 199.

notes, not being authorized so to do, was to lose its charter. No individual, town, or city might issue notes; penalty, $50 for each offense. March 13th, the prohibition of small notes was repealed. Banks which would redeem them in specie might issue down to $1. The banks were required to resume by July 4, 1838, provided that the banks of New York, Philadelphia, and Baltimore should do so by that time; otherwise their notes would not be received by the State.

A convention of banks of the State was held April 30, 1838, for the purpose of equalizing the currency of the State by a system of mutual credits.*

All notes less than $3 were forbidden, February 9, 1839, after the following July 4th; also all under $5 after October 1st; the penalty for issuing or passing was $50 for each note, or an injunction might be obtained against the corporation. February 25, 1839, an attempt was made to establish a general law for the regulation of banks. Commissioners were appointed to visit. No bank was to owe, exclusive of its deposits, more than one and a-half times its paid-up capital, and shares paid for by stock notes were not to be considered paid-up. The circulation was never to exceed three times the specie; banks never to buy their own notes at a discount; twelve per cent. penalty for non-redemption; fine of $5 to $50 for refusal to endorse on a note the refusal to redeem it; the Commissioners to obtain a mandamus to the sheriff to close any bank which should not redeem for thirty days, and the Court to name three receivers to wind it up, the charter being annulled.

March 18th, another attempt was made to define more strictly unauthorized notes, so as to include all paper, no matter what its form, if it was intended to circulate as money.

The Auditor reported, December 3, 1839, that the Washington Social Library Company had commenced banking, declared a dividend, and asked the Auditor to draw for the State tax on it. The Granville Alexandrian Society had also taken the same step, the purpose being to win a recognition of their banking right. He had refused to draw for the tax and a *quo warranto* had been issued by the Supreme Court,

Gouge has the following story of an institution of this character. Some thirty years earlier a charter had been granted to a library company in Newtown, Hamilton County, Ohio, which company, after being in operation about ten years, sold its books by public auction and dissolved itself to all intents and purposes. In 1840, the shares were bought up by some eastern men on a pretext of establishing a manual labor school, but they began immediately to issue paper money. They have nothing with which to redeem these issues, "except the library, consisting of Harper's family library, some old newspapers, and some rusty novels and tracts. The chief book in the collection is a copy of 'Oliver Twist' with engravings. It's called the Bank of Hamilton County."†

The report of the Bank Commissioners, January, 1840, showed that half

* 1 Raguet's Register, 379.

† Journal of Banking, 91. (1841.)

the banking capital of the State was owned by non-residents; one-third of all the loans were to bank officers and directors as borrowers or endorsers. "The banks distrusted one another and the public distrusted them." They had been warring on each other. Nine institutions are mentioned which have "illegal circulation;" one is the Orphans' Institute. There are also a great many forged notes afloat and notes of Michigan banks payable in Illinois.

March 23, 1840, small notes were once more forbidden. Also it was forbidden to pass them except to redeem those now out; also it was forbidden to issue notes payable at a future day or elsewhere than at the place of issue. All notes were held payable on demand in specie at the place of issue. No broker might pay out illegal notes; no notes under $5 to pass if not issued by the banks of Ohio; no State officer was to receive or pay out notes under $5. The Bank Commissioners in their next report said that this law had greatly diminished the circulation of unauthorized notes.

MICHIGAN.—The Farmers and Mechanics' Bank was incorporated by the Territorial authority in 1829. A safety fund system was created, March 28, 1836.

A general banking law was passed March 15, 1837. Twelve freeholders of a county might form an association under certain conditions. The minimum capital was $50,000, of which $15,000 must be paid in before commencing. The allowed issue was $37,300. This law stimulated the formation of banking companies. In 1838, there were forty or fifty of them, for it appears that the number was not really known. It was a caricature of the New York system, and produced a swarm of small, swindling concerns. After the suspension, in 1837, the Legislature sanctioned the action of the banks in suspending, for one year, and a redemption law was passed for land sold on purchase-money mortgages, allowing the equity owner one year to redeem, with ten per cent. interest. The name "wild-cat" banks is said to have originated in Michigan. Bank Commissioners were appointed, who made their first report April 6, 1838. In it we find the following: "On examination of the books of the Jackson County Bank, the following circumstances were exhibited: the names of all persons and corporations with whom accounts had been opened were written in pencil; the entries in ink. In a few minutes, therefore, the whole face of the business transactions of the bank could have at any time been entirely changed." "The Commissioners proceeded to an examination of the specie of the [Jackson County] bank. Gold coin was exhibited loose in a drawer, which, being counted, amounted to the sum of $1,037.78; about $150 in loose silver was also counted. Beneath the counter of the bank, nine boxes were pointed out by the teller as containing $1,000 each. The teller selected one of these boxes and opened it; this was examined, and appeared to be a full box of American half dollars. One of the Commissioners then selected a box, which he opened, and found the same to contain a superficies only of silver, while the remaining portion consisted of lead and ten-penny nails.

The Commissioner then proceeded to open the remaining seven boxes; they presented the same contents precisely, with a single exception, in which the substratum was window-glass broken into small pieces." "On reference to the statement of the bank [of Jackson County], dated February 19, 1838, the third day previous to this examination it will appear that on that day the bank claimed, under the signatures of three of its directors, to be possessed of the sum of $20,000 in specie, independent of the certificate of deposit for $10,000."

All the penalties of suspension were suspended, June 23, 1837, until May 16, 1838. The banks which availed themselves of this indulgence must come under the safety fund obligation, and submit to the visitation of the Bank Commissioner. December 30th, the number of Commissioners was increased to three, and they were to visit each bank at least once in three months.

Michigan money was reported in June, 1838, to consist of three kinds, red dog, wild cat, and catamount. "Of the best quality it is said that it takes five pecks to make a bushel."*

The Bank of the State of Michigan was chartered April 2, 1839. It was imitated almost exactly from the Bank of the State of Indiana.† The difference in the history of the two shows how little the "plan" of a bank has to do with its success. December 30th following, the Bank Commissioners reported that this bank was under injunction and had been ordered to wind up. At that time all the banks in the State were broken.

INDIANA.—The Bank of the State of Indiana suspended with the others in 1837. The Legislature at its next session declared by resolution that the suspension was "justifiable and necessary under the then existing circumstances, and that the approval thereof by the directors of the State Bank was properly given." It was declared to be the duty of the bank to resume within thirty days after the resumption of the banks on the Atlantic coast, and with those of Ohio and Kentucky. The bank loaned to the State $286,751, the amount of the fourth installment of the federal surplus revenue. The State was then deep in expenditures for public works, which were all managed outside of the State treasury. The State Treasurer was alarmed at the growth of the debt; nevertheless, by an act of February 12, 1839, it was voted to contract a loan of $1.5 millions in that year, and $700,000 in each of the five following years, to increase the capital of the State Bank. This act only shows the mania of the moment. The State credit did not avail to contract the loan.

Inasmuch as this Bank of the State of Indiana is the only one of the great banks of the States which was successful, it is interesting to note any indications of the reason of its success. We note immediately that the Central Board exerted genuine and stringent discipline, and that their interests and feelings were not engaged in the banking business, because they had no

* 54 Niles, 224.

† See page 235.

bank to manage. In 1839, they issued peremptory orders to one of the branches to pay a sum due to the Treasury of the United States, and provided for the payment by the other branches, if the one in question should fail. They approved and allowed the dividend of each branch; inspected the branches and ordered their policy; gave or refused permission to take government deposits. They watched the tendency to accommodation paper and laid down banking rules.

The Bank of the State suspended a second time in the fall of 1839, with the exception of three of the branches. Its report for November, 1840, showed profits for the year of ten and a-half per cent. The president said: "There have been almost no difficulties in managing the bank, which have not arisen mainly from the purchase of stock by persons with the expectation of borrowing money on more favorable terms than could be allowed to others."

ILLINOIS.—As soon as the general bank suspension occurred, an extra session of the Legislature was called, at which all the acts against bank suspension were suspended until the end of the next session, but the banks were not to pay dividends nor sell specie nor increase the circulation beyond the paid-up capital; were to give monthly statements to the Governor, and to allow renewals to their debtors, ten per cent. being paid at each renewal.

Residents of Illinois, in June, 1838, owned $60,000 of the stock of the Bank of the State. The liabilities of these stockholders to it were about $900,000.*

The Bank of the State, having suspended again in 1839, was revived by an act of January 31, 1840, and the forfeiture of its charter was set aside, provided it would agree to the stipulations in the act of the extra session of 1837, authorizing suspension.

ARKANSAS.—The Governor, in 1846, said: "The financial history of the State exhibits a series of blunders." A tax of one-fourth of one per cent. was levied by the first Legislature, 1836. It promised to produce more revenue than was wanted and the Governor hastened to call an extra session at which the levy was reduced to one-eighth, which did not, for ten years, give a revenue of $30,000. There was an annual deficit which was met by eating up the deposit of the federal surplus revenue. At that same called-session banks were planned to support the State and do away with taxation. The consumption of the federal surplus was a consumption of a part of the capital of the Bank of the State. The Governor also complained of the great amount of auditor's warrants which had been issued during the first ten years of the State's existence and which were at about fifty cents on the dollar.

The Constitution of 1836 provided that the Legislature might incorporate one Bank of the State, "which shall become the repository of the funds belonging to, or under the control of the State, and shall be required to loan

* Committee on Banks, January, 1843.

them out throughout the State, and in each county, in proportion to representation. And they shall further have power to incorporate one other banking institution, calculated to aid and promote the great agricultural interests of the country; and the faith and credit of the State may be pledged to raise the funds necessary to carry into operation the two banks herein specified: *Provided*, Such security can be given by the individual stockholders as will guarantee the State against loss or injury."

From this provision of the Constitution it is evident that the scheme of the banks was already in mind.

The report of the Committee of the Legislature, in 1836, on the proposition for the two banks, pointed to the example of the great Banks of the State in South Carolina, Georgia and Alabama; and spoke in general terms of the advantages of banking, with an issue of three for one on the capital. They said that the Bank of the State would gain not less than $50,000 per annum. Before it adjourned, the Legislature made plans to put the State in debt $3,040,000. Its population was about 90,000. It is one of the most astonishing facts in this marvelous period that communities like Arkansas, Illinois, Indiana, and Florida should have found anybody to lend to them, even if they were foolish enough to borrow. The best defense of themselves which they could make to their creditors afterwards was: We have all been crazy together.

The Real Estate Bank of Arkansas was incorporated October 26, 1836. It was on the model of the Union Bank of Louisiana, but its history was longer, fuller, and is better known to us than that of any other bank on that model. The capital was to consist of $2 millions, borrowed abroad by means of bonds of the State, and the stockholders were to subscribe $2.5 millions in mortgages, to be transferred to the State as its security. It was to begin with three branches, each to be independent. Each branch was to elect two of its directors, who, with the president of the branch and three members of the parent board, were to constitute the Central Board. They were to elect the president, hold all papers and records, receive the State bonds and negotiate them at not less than par, in current money; the bank to pay the principal and interest of them. Each stockholder was entitled to a credit equal to one-half his shares. All dues to the bank were to be arranged so as to run out twenty-two years from the date of the charter; non-stockholders might renew notes with mortgage, annually, for ten years; the incorporation was for twenty-five years, the last three years being allowed for liquidation. The bank was a preferred creditor, so that its mortgages are called privileged mortgages. All profits were to remain in the bank and accumulate until the State bonds were paid. Only at the end of twenty-two years could the surplus assets be divided amongst the stockholders. Borrowers paid to the bank eight per cent.

The fact that it was the State which organized this institution, and that it was called a bank, blinded the minds of its originators to the fact that it was a gigantic financial experiment, containing an enormous risk. When

it failed, the mortgages for the stock and the mortgages for the loans, with the guarantee of the State to the bondholders, and of the stockholders to the State, were found to make an inextricable snarl. A Governor, in 1854, said: "It was never intended that the people should be taxed to pay the bonds or the interest on them." This was naïvely true, but it implied that the loss, if the scheme did not succeed, was to be thrown on the purchasers of the State bonds. Fifteen hundred and thirty bonds were actually issued for the bank and five hundred more, a little later, for another branch. The latter issue was hypothecated with the North American Trust and Banking Company of New York for a loan, on which the actual amount received was $121,336. That bank failed and the collateral was sold, passing into the hands of Holford of London.

The number of acres mortgaged to the bank was 187,810, appraised at $3,380,772. Ten years later they were said to be worth about $2 millions. There were two hundred and eighty stockholders.

The Bank of the State of Arkansas was incorporated November 2, 1836; $1 million capital, to be raised by State loan; president and twelve directors to be elected by joint ballot of the Legislature; also a president and nine directors for each branch; lowest note, $5; never to issue more than three times the capital; to begin when $50,000 in coin paid in, and to establish a new branch for every $50,000 paid in; each branch to be independent in its business; the funds and revenues of the State to constitute the capital; trust funds might be placed in it for not less than a year and get the same dividend "as other stock belonging to said institution." Not more than half, nor less than a quarter, of the means were to be used in the counties, in proportion to "representation," in loans on real estate for five years. The number of bonds actually sold for this bank was 1,169.

The federal surplus revenue, which had been intended for the Bank of the State of Arkansas, was paid in drafts on the Agricultural Bank and the Planters' Bank of Mississippi. After great difficulty, instead of $382,333, which was the State's quota, the bank obtained only $286,757. The former amount was due to the United States in specie, but out of the amount which Arkansas obtained, only $91,167 was specie. The rest was in the notes of suspended banks in Ohio, Kentucky, Louisiana, and Mississippi. The bank put these notes afloat in Arkansas, and issued post-notes of its own. Of demand notes it issued only $8,310.

January 12, 1838, the directors of the Fayetteville branch resolved that as they received no compensation, the bank should lend them, on their notes at twelve months, $10,000 each, being the limit set in the charter. They were also to be allowed to renew their notes until all the debts should be called in. This branch was operating on a bare capital of $110,000, and these directors took $90,000 out of it. January 1, 1839, the bank was very strong and began to pay specie on its notes and post-notes; but each branch paid out the notes of others, keeping the circulation far away from the point of redemption. The Fayetteville branch suspended again October 31st.

The issues of this bank were assailed as bills of credit, but the State Supreme Court held* that, under Briscoe's case, "by which in this case this Court is bound, whatever may be its opinion to the contrary, the notes issued by the Bank of the State of Arkansas are not bills of credit within the meaning of the federal Constitution, and that the act incorporating the bank is constitutional." Referring to the cases of Craig and Briscoe, the Judge said: "Like Justice Story, we believe that the two cases stand on precisely the same ground and turn expressly on the same principle."

The two banks suspended in the fall of 1839. This was done not from necessity but from policy. The immediate means of the Bank of the State were $469,949 and its immediate liabilities not over $400,000. It suspended in order to expand and inflate. In fact the banks lent out to the clique in control all the specie and real funds which they ever obtained, once for all, and then stopped. The bank at Little Rock resumed for a while October 1, 1840, to the great displeasure of the other branches. It had nearly twice as much specie as notes out. At the following session a legislative Committee was appointed to investigate the banks. Resolutions were adopted expressing dissatisfaction with the Real Estate Bank for suspending, and the report of the president was declared to be "not the most intelligible and satisfactory." The report showed that the commissioners to sell the bonds for the bank sold $500,000 to the Secretary of the Treasury for the Smithsonian bequest, which had been imported into this country in specie. They paid $5,000 to a broker in Washington for negotiating the sale, and charged the same sum for themselves. They converted the money into southwestern paper, and pocketed the difference. They charged $28,394 for their expenses and services, and for considerations not stated loaned $8,500 to certain individuals in New York.†

More information was demanded in regard to specie, debts due to the bank, the amount of mortgage security to save the State from loss, etc. The Real Estate Bank paid the interest on the bonds issued for it until July, 1841, except on the Holford bonds, and on the cash received for a part of the same issue. December 15, 1842, the State appointed an agent to instruct and help the attorney of the Bank of the State in a suit aginst the North American Trust Company and its guarantors.

* 4 Pike, 44. (1842.)

† 64 Niles, 5.



CHAPTER XIV.—CONTINUED.

§ 5.—*1840 and 1841. The Third Failure and Final Bankruptcy of the United States Bank. The Bank Failures of 1841. The Extra Session of Congress of 1841. The Last Attempts to Charter a National Bank. The Pennsylvania Relief System.*

The amount of circulation of the safety fund banks of New York, January 1, 1839, was $19.3 millions. During the year 1839, the withdrawal of safety fund notes exceeded $7 millions, while the issue of new notes was about $6 millions, so that there was a net diminution in that year of $1.7 millions. The Comptroller said: There is a reasonable and necessary depreciation of bank note currency as it is carried away from the place of issue equal to the expense of transporting gold and silver to the same point. "Any further depreciation is unjust to the community which has to sustain it." He proposed that the banks under the general banking law should appoint agents to meet weekly to assort, count, and arrange in separate packages all the notes received at the agency, and adjust the balances between the different banks, with an allowance of time according to the distance, for the payment of the debtor balances. He was of the opinion that the safety fund banks and the general banking associations acted antagonistically to one another, and must do so unless some means of uniform redemption of their issues could be devised.*

April 25, 1840, the Legislature, in pursuance of these suggestions passed an act providing that every bank, banking association, and individual banker, except those in New York, Albany and Brooklyn, should appoint an agent in New York City to redeem their notes at not more than one-half of one per cent. discount. If the agent of any bank should fail to redeem its notes, that bank should pay interest on the same at the rate of twenty per cent. per annum, and if the redemption was delayed over twenty days, the bank should be liable to be proceeded against by the Bank Commis-

* Comptroller's Report, 1840.

sioners. No bank was to receive circulating notes after that time until after it had appointed a redemption agent. In May, 1840, the act was amended so that any person or association who should put in circulation any note not payable on demand, that is any post-note, should be punished by fine and imprisonment, as for a misdemeanor. The section requiring banks to keep twelve and a-half per cent. in specie on the amount of their notes was repealed. Banks were made liable to the inspection and supervision of Bank Commissioners.

In February, 1840, it was reported that there was a great decline in prices at New York and distress for capital. Little business was being done, rents had fallen from thirty per cent. to fifty per cent. Twenty-four establishments at Paterson were idle.* During the spring there were still some failures; southern remittances did not come to hand; the banks were strong in specie.† In May, the law compelling the country banks to redeem in Albany or New York at one-half of one per cent discount, was going into operation. It produced some difficulty, as the current discount was from one and a-half to two and a-half per cent.

The amount of capital invested by New York and Philadelphia in southern and southwestern banks was estimated at $15 millions, and this was held to account, in some degree, for the embarrassment experienced in those cities in 1840.‡

The Bank Commissioners of New York pointed out in their report of 1841, that the failure of one large bank might produce a loss so great that the annual income of the safety fund would not pay the interest on the loss. They referred to one bank whose liabilities were $7.6 millions in 1837, and if large federal deposits were again placed in any bank, the same state of things might recur.

January 1, 1841, the safety fund amounted to $914,342. Up to January 1, 1842, the Treasury had advanced for the redemption of the circulating notes of insolvent banks, under the act of 1837, $549,885. On that date the solvent banks were bound to pay in $183,342. The Comptroller construed the act of 1837 that the capital of the fund was never to be reduced below one-third of its amount by the redemption of notes in anticipation of the liquidation of the bank's own assets, so that the only amount available was $243,108. Safety fund banks had failed in 1841 with $950,000 in circulation. The capital of the remaining safety fund banks was $30.7 millions, and consequently the annual contribution, $153,507.

The State now borrowed the safety fund, consisting at the time of $343,436, and spent it on the public works.

In March, 1841, there were twenty banks in central and western New York which failed to redeem their notes in Albany or New York, as required by the statute of May 4, 1840.

The decline in State stocks had so impaired the securities deposited

* 57 Niles, 416. † 58 Niles, 100. ‡ Raguet; Currency and Banking, 127.

under the free banking law that a panic arose in regard to the free banks in March. The notes of twenty-three of them were rejected, and all the safety fund and free bank notes were at a discount. The New York banks were refusing new accounts. New York notes were not then taken on New England railroads.*

A number of free banks failed at this time in connection with the decline in value of the securities deposited by them for their circulation, but not on account of it. "These stocks had not only been purchased at very high prices originally, but on credit, and without any means or resources, in many cases, for the payment of the debt thus created. The associations had been put into operation by borrowers instead of lenders of money, and the circulating notes had been employed to relieve the old embarrassments of the proprietors instead of being used either in the discount of business paper or even in the payment of the debt contracted in the purchase of the securities."†

On the 3d of August, the Comptroller sold the securities of twelve free banks, of which six were in Buffalo. The securities of seven of these banks, consisting largely of mortgages on unproductive property in Buffalo, which were in the fund at a valuation of $169,540, sold for $97,116.‡

In September, the North American Trust and Banking Company was put in the hands of a receiver. This bank was organized in the summer of 1838. It was intended to have a capital of $50 millions, but started with $2 millions, consisting of bonds and mortgages. It was intended that it should obtain the federal deposits. It never had any solidity.§

The Commercial Bank failed at the same time. It had been founded in 1833, in order to get a part of the public deposits. The Comptroller of the State advertised for a loan of $120,000 at six per cent. in order to redeem its notes, because the safety fund then existed only as a credit due from the State.

In December, it was reported that few brokers would buy the notes of any of the free banking associations and "the notes of many of the safety fund banks of the interior are regarded with great distrust."‖ In the year 1841, twenty-five free banks and ten safety fund banks failed.¶

Gouge** gives the following table of circulation in the State of New York, which shows the marvellous fluctuations to which it had been subjected:

Date.	Safety Funds Banks.	Free Banks.	Total.
1837 January 1st.	$24.1 millions.	none.	$24.1 millions.
1838 "	12.4 "	"	12.4 "
1839 "	19.3 "	$2.5 millions.	21.8 "
1840 "	10.3 "	6.0 "	16.3 "
1841 "	15.2 "	5.3 "	20.5 "
1842 "	8.1 "	4.0 "	12.1 "

* 60 Niles, 392. † Bank Commissioners, January 26, 1842. ‡ Gouge; Journal of Banking, 54.
§ Gouge; Journal of Banking, 87. ‖ Gouge; Journal of Banking, 184. ¶ Elliot's Funding, 1176.
** Journal of Banking, 230. The figures for 1842 were estimated.

In March, 1840, affairs between the banks at Philadelphia were in great confusion. Each bank refused to issue its own notes. The Girard Bank and the Bank of the United States, which had been furnishing the current circulation, now refused to do so, and the other banks refused to accept their certified checks.* The neglect of Pennsylvania to provide for the interest on her debt by taxes produced a great feeling of distrust in London, which affected the value of all the State stocks.†

The strong and conservative banks of Philadelphia issued no notes in 1840. This compelled them to do business with the notes of the others. The United States Bank furnished a circulation, in 1839-40, and failed, owing the good banks $7.5 millions. Then the Girard furnished the circulation in 1841 and failed, owing them $1 million. Then the Pennsylvania Bank furnished it until the need of paying $1 million State interest in its notes, and the danger that the same thing would result to them from it, if this was done, caused them to reject its notes; whereupon it failed.‡ Still it owed them $745,000 when it failed. The operation is thus described:

Sound banks, wishing to resume as soon as possible, have issued no notes. Having no notes of their own outstanding, they have been compelled to receive, on deposit and in payment of debts, the notes of others, constituting the circulating medium. Unable to obtain any settlement of these bills, the bills accumulated rapidly until, unwilling to trust the issuing banks longer, the sound banks refused to take them. This involved the stoppage of the banks issuing them. "This has been the general operation of suspension throughout the South. The practical operation is gradually to change the assets of the banks which issue no bills, consisting of individuals' notes, into the bills of other banks; that is, to convert their claims upon good individuals into a claim upon a bad bank, consequently depreciating their assets, and ruining their property."§

In January, 1840, the United States Bank loaned the State of Pennsylvania its share of a loan made by all the banks, $870,000. No dividend was made at that time, although the Dividend Committee figured out a surplus of $5.2 millions.

The shares fell two pounds sterling in England on the news that there was no dividend. In April the stock was quoted here at 78 1-3. In June the six per cent. bonds of the Bank were at 98. In September, Jaudon came home and was reported to have brought with him a hundred thousand sovereigns for the Bank. His errand was understood to be to bring about resumption.‖ He had exhausted his system of finance. If he was to do anything to escape from his position and go on, he must pass over to the system of hard cash.

Governor Letcher of Kentucky, in his message of 1840, bewailed the destruction of the United States Bank, not only because the local banks

* 58 Niles, 32. † Raguet; Currency and Banking, 307. ‡ See page 355.
§ Democratic Review, March, 1842; no doubt by Gouge. ‖ Appleton, Currency (1841), 17.

could not provide a uniform and sound currency, but also because they could not provide domestic exchange. The trade of Kentucky, he said, "without a Bank of the United States, is constantly, and oppressively, and unjustly burdened in both directions, towards New Orleans and towards the eastern cities. Its bills on New Orleans, of which it is generally a creditor, are usually sold at a discount of two per cent., besides interest, while remittances on the eastward, of which we are generally a debtor, command a premium of from two per cent. to three per cent. During the existence of the branches of the United States Bank they purchased generally the bills of our traders on New Orleans at from one per cent. to one and a-half per cent. discount, and supplied remittances in great abundance to any part of the United States at a premium of one-half of one per cent. The people of Kentucky have suffered constantly and severely by these operations, and have lost hundreds of thousands of dollars for the want of a Bank of the United States."

The banks of the Mississippi Valley very much preferred the exchange business to the discounting of notes. In the former they escaped the restrictions of the usury law and also the necessity of making renewals. The exchange business was therefore more profitable and more punctual.*

In the Pennsylvania Legislature,† in 1840, there was a strong party of radical democrats, which was greatly irritated against the banks, especially against the Bank of the United States. The latter had, therefore, great cause to apprehend adverse legislation, especially in the way of a peremptory command to resume. A committee of the directors was appointed, of which George Handy was the only active and important member, to watch legislation and take measures to defeat any which should be hostile. Handy employed one or two experienced lobbyists; but in the course of the winter and spring there were a half-dozen persons who were active at Harrisburg in the interest of the Bank and who were in the end paid by it. It was inevitable that some action would be taken, and the points which the Bank wanted to secure were that a date should be set as distant as possible for resumption, and that all the laws imposing penalties for non-redemption should be suspended until that time. It attained its objects. Two years later an investigation was made, in which all these proceedings came to light, and the correspondence of the Bank's agents with Handy, consisting of one hundred and nine letters, were published.‡ The Investigating Committee, in their report, construed all the evidence as proving that the lobbyists had duped the Bank and extorted money from it, but had never paid anything to any member of the Legislature, and had never really influenced legislation. This theory is not adequate to the facts presented in the testimony, which presents us a shameful picture of the Bank of the United

* Answer of the Bank of Kentucky to Interrogatories, 26 Cong., 2 Sess., 4 Ex., 111.

† Writing in 1831 Gouge had said that a bank ticket or a money corporation ticket was rarely seen at an election. In 1841 he said that the banks took the field openly. (Journal of Banking, 149.)

‡ Report of the Committee on Bribery and Corruption by the Banks in 1840.

States practising all the arts of legislative intrigue and corruption, because it was in the last stages of financial rottenness; and on the other side, the Legislature of a great State making demands on the Bank, which would have been sure to ruin a solvent institution, in order to try to carry on its "improvements" without taxation. It required folly and vice on both sides to bring to pass such a piece of legislation. In such an arena and under such circumstances, the lobbyists of course were triumphant masters, and the testimony shows that those who were employed were experts, that they had a definite aim to accomplish, and that they accomplished it. The Bank Committee, that is, Handy, drew from the Bank, in this connection, $131,175.

This intrigue is singularly interwoven with a political intrigue, in which the Bank party are working to give the State to Van Buren; and the jealousy of New York is another strand which is interwoven through the whole. The Governor of the State was in alliance with the Bank party and assisting them. The leading men in Pennsylvania at this time had all reached a conviction of some desperate necessity, in respect to the financial affairs of the State, the city of Philadelphia, and the Bank of the United States, which compelled the best of men to consent to measures which, at another time, they would have considered base and criminal.

The outcome of the legislative struggle was the joint resolutions of April 3, 1840, by which all the chartered banks were required to resume January 15, 1841, or forfeit their charters; but any one might "proceed to recover and collect in gold or silver coin the liabilities of, and the penalties recoverable from, any of said banks, according to the common law in force in this Commonwealth, and not otherwise." This clause was the pride of the lobbyists. There were no penalties by the common law, and the "not otherwise" was intended to cut off all the statutory penalties.

The courts, however, did not take the view of this device which the schemers expected. It was held that the Legislature never could have intended to appoint a remedy which did not exist, or, in that way, to prescribe a denial of justice. Hence a demand was assumed to have been made, since it was not denied, and twelve per cent. was awarded from the time of commencing suit.*

The next section of the act prescribed the method of ascertaining that a bank did not redeem and the method of enforcing forfeiture. No such law had ever been enforced except in case of absolute bankruptcy, and the action of the courts on several cases brought by Kuhn showed that they felt called upon by some considerations of public policy to construe all the laws beneficently in favor of the banks. It was further provided that banks which had suspended since October 9, 1839, or should do so before January 15, 1841, must lend to the State, *pro rata* of their capital, within one year, not over $3 millions at not over five per cent.; the sum to be expended on the

* 6 Wharton, 585: Dist. Ct. Phil.; affirmed, 2 Watts and Sergeant, 443. (1841.)

debts and interest of the State, and on repairs and continuation of the public works, for which certificates should be given in such sums as the lending banks might demand, and transferable in such manner as the Governor might direct, payable in not over twenty-five years. There was more lobby trickery in these provisions. Banks might issue their notes, and pay not over six per cent. dividends, as if paying specie, until the day set for resumption.

In May the Legislature reassembled, when the House ordered the Bank to lend to the State $4 millions at four per cent. or forfeit its charter; $3 millions being at the same time appropriated to public works. The Senate struck out the compulsion on the Bank and left the loan to be raised by ordinary methods.*

The land bank notion also now made its appearance again in Pennsylvania. A bank, with $500,000 capital was chartered by the Legislature, half the stock to be paid in in specie and half by mortgage of the full value of the stock. It was vetoed by the Governor, June 11, 1840, because there were too many banks, and those which existed were not paying their debts; without regard to the merits of the plan.†

In October, 1840, the banks of Pennsylvania were preparing to resume, but the Governor called on them to take another loan of a million under the resolutions of April 3, 1840. Philadelphia was heavily indebted to the East, and the United States Bank wanted a loan from the other banks to help it to resume. The latter request could not be granted unless an extension could be obtained on the former debt. The extension was also necessary to resumption. Confidence in the United States Bank, outside of Philadelphia was entirely gone.‡ It does not seem possible that it could have had credit amongst men of affairs after October, 1839, but there certainly was a stubborn faith in it, and the literature does not by any means show a widespread popular discredit of it.

Jaudon went back to England in November and published a statement in which he put the liabilities of the Bank at $72.8 millions, including $12.6 millions in Europe and $5.4 millions to other banks. The assets he stated at $76.1 millions, including $2.8 millions specie.§ The banks of Philadelphia owed $2.5 millions to New York and Boston. They applied to Boston to have balances put on interest to the amount of $1.5 millions. It is stated that on account of jealousy of New York they were not willing to apply there. New York was believed by the Philadelphians to desire the failure of the Bank of the United States. Nevertheless the former offered to put $1 million of debt on interest. "The Philadelphians are a peculiar people in the matter of currency. They have a strange fondness for inconvertible paper."‖

Nathan Appleton blamed the banks of Philadelphia for entangling them-

* 58 Niles, 199: 229. † Treasury Report, March 3, 1841. ‡ 3 Gallatin's Writings, 405.
§ 59 Niles, 257. ‖ 59 Niles, 257.

selves with the Bank of the United States in 1839, which was the cause of the embarrassments of all the banks of the great commercial cities during the eighteen months following.*

When the Bank of the United States attempted to resume it held 24,714 of its own shares. It had in specie, on the 21st of December, $2,171,722. The circulation of the old Bank still out was $547,856; of the new Bank, $8,788,144; post-notes outstanding, $1,887,658. It owed the United States on a bond $633,643.

On the 4th of January, the stockholders' meeting took place, which caused a report to be published with a list of the securities held by the Bank. These were seen at a glance to be among the poorest on the market. "Bicknell's Reporter" estimated the losses, at the market price of these stocks, at $17.3 millions. The stock fell $17 on the publication of this report.

On the 15th, the banks resumed. The Philadelphia banks within the next three weeks paid out $11.3 millions, of which the Bank of the United States paid out $6 millions. The others tried to separate themselves from the Bank of the United States.† The latter failed February 4th. The deposits when it failed were stated at $2.2 millions, and the notes out at $2.8 millions. This does not include the notes of the old Bank, most of which were supposed to be lost. The stock fell $30 per share on this failure. In a report of the directors to the stockholders, April 3, 1841, it was stated that after the Philadelphia banks had exchanged $5 millions of their credit for post-notes at nine and eighteeen months, they still had $1.5 millions in notes of the Bank of the United States for which they demanded specie. This was paid. Then another call for $1.1 millions was paid to creditors in the East who had suits pending which they then withdrew. In January also, the Bank lent the State $400,000 in specie, and the other banks made a loan to it in notes of the Bank of the United States, which thus became a specie demand on the latter. After February 4th, the Philadelphia banks refused the notes of the Bank of the United States. It was a run from the eastward, therefore, which overthrew the Bank.

The Bank, when it failed, had eight agencies outside of Pennsylvania and three offices in that State. The number of stockholders in Europe and elsewhere abroad was 1,390; in Pennsylvania, 1,481; in the United States, outside of Pennsylvania, 1,658. Out of $35 millions capital, $27 millions were held abroad, $6 millions in New York, and $2 millions in Philadelphia. The number of persons owning five shares or less was 864; between five and ten, 661; between ten and twenty, 732; between twenty and fifty, 994; between fifty and one hundred, 588; between one hundred and five hundred, 614; over five hundred, 80. A great amount was held on the islands of Guernsey and Jersey. It was equal to three or four pounds per head of the population. The news of the failure reached England with the news

* 5 Proc. Mass. Hist. Soc., 290. † 59 Niles, 405.

of the resolution of Congress, threatening to support New York in the trial of McLeod, and produced a slight panic. The State stocks, however, had not, at this time, undergone any great decline. The London "Times" said that £2.4 millions sterling borrowed in England by the Bank had been so much saved for New York. "Such a wreck of a great banking concern has probably never before occurred." The shares were quoted at £4 10s., nominal. All its drafts were accepted however.

February 13th, the Bank addressed a memorial to the Legislature praying not to be separated from the other banks in the relief which it was proposed to allow them by measures then under discussion. The memorial states that the Bank has paid the State $3,022,662, has subscribed $415,000 to railroads, etc., and has loaned the State $8,620,000 within five years of depression. In March, an act was passed which in many respects was nearer to what the lobbyists of the Bank of the United States wanted than the bill which was passed the previous year. The extra penalties for suspension were repealed. Permission was given to the banks to issue small notes for five years to the extent of fifteen per cent. of their capital; loans to directors and proxy voting were restricted; five per cent. dividends might be made during suspension; the Bank of the United States might reduce its capital to $14 millions, if it desired to do so, and was released from a part of the bonus. This bill was vetoed and failed.* The struggle was then re-opened, and finally on the last day of the session, May 4, 1841, the so-called relief act was passed over the Governor's veto. The act was so loosely drawn that it is not easy to understand the relation of its separate parts.

A State loan of $3 millions at five per cent. was to be issued, no bond to be less than $100; the banks, with the exception of the Bank of the United States, might subscribe to this loan in their ones, twos, and threes, which bank notes should be redeemable in the State bonds whenever presented at their counters (*i. e.*, after the State had put them in circulation); notes redeemed to be marked "canceled;" the bank's charter to be forfeited if this redemption did not take place within ten days; the banks were to have one per cent. for the loan while the notes were out, but were to pay the interest on the State bonds with which they redeemed their notes, and to deduct that interest from the dividend tax which they would otherwise have to pay the State. The small notes issued in this way were to be receivable for debts to the State, re-issuable by the banks and the State, and receivable by the banks for debts and on deposit. The banks might pay five per cent. dividend in spite of suspension. The banks which, having paid a bonus, had no tax on dividends to pay, might deposit State stocks with the Auditor-general to the amount of five per cent. on their paid-up capital, and issue notes to that amount in denominations not less than fives. The dividend-paying banks might also take this latter course

* 60 Niles, 71.

to the extent of seven per cent. of their capital. Charter forfeitures, on account of suspension, were not to be enforced until this loan was repaid. No penalty in excess of six per cent. was to be exacted from any bank which complied with this act. The Bank of the United States was excluded from it, unless it accepted this act and made itself liable to all future legislation. The Governor vetoed this act because it would make the suspension perpetual,—that is, until the loan provided for in the act was paid. Gouge said of the act: "This is a deplorable state of things; a bankrupt State orders the emission of upwards of $3 millions of State paper money, redeemable only in State stocks, which were at the time the act was passed twenty per cent. below par, which have since fallen several per cent. more and which may fall no one knows how low. Nor is this all. It authorizes this State paper money to be increased in amount to between $5 millions and $6 millions, and in order to obtain circulation for it consents that the banks shall, if they will receive it in payment of debts, postpone the resumption of specie payments as long as shall suit their own convenience."*

Gallatin's comment on this law was as follows:

"The banks of Philadelphia, notwithstanding the difficulties which they had to encounter, had succeeded in keeping their currency, their deposits, their liabilities payable on demand, all which is generally called "Philadelphia funds," at a discount, compared with specie, of less than five per cent. An emission of a new species of currency is now authorized, which, being only a promise to issue a State stock to the same amount, is, on the day when it is issued, worth intrinsically no more than that stock, or less than eighty per cent. of its nominal value. It may be that the demand created by having made that currency receivable in payment of debts to the Commonwealth and to the banks may enhance that value. This is altogether conjectural, and it cannot certainly be expected that it will become equal to that of the actual currency at this moment of the Philadelphia banks. Under the most favorable aspect it is still a legalized emission of a depreciated, fluctuating, and irredeemable paper, analogous to a falsification of the legal coin of the country. And in order to carry this plan into effect it has been deemed necessary to compel the banks to receive that paper in payment of the debts due to them, and to give a solemn legislative sanction to a protracted suspension of specie payments; that is to say, to a continued immoral and illegal violation of engagements and contracts for a term which may be not less than five years."†

April 17th, at a meeting of the stockholders of the United States Bank, it was voted to accept the relief bill and to become subject to any future general law of the State about banks; also that the directors should give notice of an application to reduce the capital and change the name.‡

It was at this time that the Committee of Investigation reported, which

* Journal of Banking, 6.

† 3 Gallatin's Writings, 411. Bollmann proposed a scheme of currency, in 1816, like this relief system. See page 75.

‡ 60 Niles, 192.

had been appointed at the stockholders' meeting of January 4th. The general result of the investigation was that the capital was lost in bad debts and in the stocks of enterprises which could not, at best, be remunerative for a long time. At the estimate put on the assets by the Committee, there were $14.8 millions to meet $32.5 millions of capital; the Bank owning part of its own shares. The debt in Europe exceeded the active loans here. The "bills receivable" had been gradually reduced. In March, 1840, they were still $4 millions. During the following year they were reduced by transferring to the Bank the stocks in which the speculators had been operating. The Bank had, during the State charter, taken $31 millions in stocks, etc., in settlement of loans and advances. "Bills receivable" were still $1.4 millions. Some of them had been transferred from "suspended debt" to "active debt," having been changed into bills discounted at deferred periods of maturity.

Biddle settled one-half the loss on cotton* with interest by giving Texan bonds for about two-thirds of the amount, and promising Texan bonds for the remainder. In their supplementary report of May, the Committee of Investigation say that the $800,000† appear not to have been liquidated profits of the cotton transactions, but, in part, anticipated profits, and they call on Biddle to repay. "We take the statement," they say, "as correct, although there are some plain mistakes in the calculations." There are no intelligible statements in the record of the profit and loss of the cotton operations, and we must accept the comment of this Committee as proof that it is impossible now to obtain any. Cowperthwaite had to pay one-quarter of the loss with interest. He gave land and stocks of very little value and $16,000 in cash. Wilder paid one-quarter by land and sundries, and $49,793 in cash. It is suggested that there was some one behind him. Who it was is not known. The Committee calculated that the stock of the Bank was worth $46.94 per share for the number of shares outstanding. Biddle published a criticism of the Investigating Committee's report, which led to a supplementary report and rejoinder. He had endeavored to break the point of their condemnation by saying that the Bank had been supporting the Reading Railroad while the Committee were interested in the Schuylkill Navigation Company, which was a rival. Dunlap published a statement that the contract guaranteed by the Bank in his name was for the account of the Bank. He took $1 million of Illinois bonds which were to be paid for in ten monthly installments. All the bonds were sent to London and hypothecated there for loans to the Bank of the United States, to which the interest on them was paid. Biddle denied that the Bank ever owned a bale of cotton. He claimed that the cotton operations paid the debts of the American people, corrected the exchanges, saved the Bank, gave a price for cotton to the southerners, and enabled him to save New York. He said that the losses on cotton would have been paid, but that he thought his

* See page 309.

† See page 302.

property had been sacrificed for the interests of the Bank. He only paid what he did pay for the sake of peace, and amongst the different securities which he offered, the Bank chose the Texan bonds. In a second letter, he declares that the Bank was sound and prosperous when he left it. He is not to blame, he says, that stocks have fallen within two years. He quotes a letter of Cowperthwaite to him, in which all subsequent calamities are traced to the premature resumption in 1838, but Biddle attributes the ruin of the Bank to the bill transaction in August, 1839, and the fatal attempt to resume in 1841. He says that the Court had decided that the Bank charter could not be forfeited for non-payment of specie, and that the Bank ought not to have obeyed the Legislature. All the banks ought to have withheld the $800,000 loan from the State, in January, 1841, unless it would extend the suspension. That is to say, he still adhered to the old policy of bluff and bounce which had been pursued by the Bank during the whole period of the State charter. In his third letter, he enlarges upon the rivalry of the Schuylkill Navigation Company and the hostile animus of the Committee, and at last runs off into personalities. In a fourth letter he denied favoritism to Thomas Biddle. In a fifth he defended Jaudon, and in a sixth, he said that all the items of account which the Committee say are not explained were passed by the directors. He tried to strip himself of responsibility for the Bank, and to answer only for his own person, but he had been so long identified with the Bank that he could not persuade the public to take this view.

The letters written by Biddle for the sake of influencing public opinion would make a large collection. In respect to all those which were written after 1836, we have the means of knowing that he was not honest and sincere. He was trying to deceive by false reasons, artful pretenses, and made-up excuses. The impression we gain from these letters we cannot but carry back to the earlier part of the history, and ask ourselves, when we feel disposed to believe that he has made out his case, whether we are not the victims of his deceit?*

Gallatin said that the United States Bank had been, since 1837, the chief cause of suspension and of delay in resuming. "In every respect it has been a public nuisance." "The mismanagement and gross neglect which could, in a few years, devour two-thirds of a capital of $35 millions are incomprehensible, and have no parallel in the history of banks." "How, after so many violations of its charter, its existence has been so long protracted is indeed unintelligible." There seems to have been some hope as late as April or May that the Bank could be revived, but suits began to multiply against it. The total number which were begun from January to September was about one hundred and eighty. Over one hundred judgments were obtained against it, some for $100, some for $100,000. In May, another attempt was made to bring about a forfeiture of its charter on account

* See page 206.

of the refusal to pay specie, but the plaintiff did not keep the notes during the three months limit, which was provided for between the first demand and the second demand. Hence he lost the right to maintain the suit.*

"In 1841 [at New York] the necessity of again suspending was freely discussed, but such a course was strongly opposed by the larger banks. These sold their claims on Philadelphia at as high a rate of discount as thirteen per cent. Mr. Newbold, of the Bank of America, brought at one time from Philadelphia $400,000 in specie, which enabled the banks of that city to maintain specie payments."†

The Wilmington banks suspended upon the news from Philadelphia. The Legislature of Delaware suspended the twelve per cent. penalty.‡ The Baltimore banks failed again, February 8th, after losing $100,000 specie. March 15th, the Georgia Railroad Bank failed, after paying out $200,000.§ On the following day the North Carolina banks failed. Those of Virginia held out until April 6th, suffering heavy runs.‖ As for the banks further south and west, it is difficult to say whether and when they resumed, and when they suspended again.¶

The capital of all the banks in the United States which failed in 1841 was nearly $70 millions, with a circulation of $24 millions. The total circulation was reduced below the point at which it stood in 1834.**

Inasmuch as the relief notes were receivable at the banks, they floated at bank par during 1841. In June, it was reported that money at Philadelphia was at eight and ten per cent. per annum; the small notes were not yet out. Five Philadelphia banks had refused the relief bill and would not accept the relief notes.††

Three counterfeit detectors were published at Philadelphia at this time. In an issue of one of them, in July, were described 1,727 counterfeits on bank notes; the greatest number on any one denomination was on the five's,—namely, 588. The counterfeits on the Bank of the United States were not included. "They were so various that one specimen from each would have sufficed to paper one side of a room."‡‡

The whigs, having won the election of 1840, were most impatient to undo everything which had been done during the last twelve years, and President Harrison immediately called an extra session of Congress to meet May 31st. Upon his death, the question at once arose: What are John Tyler's opinions and wishes? His message at the opening of the extra session disappointed the whigs. It did not respond at all to the temper of eager purpose in which they were. Clay and Tyler came into collision at once, the one being the actual chief of the party, the other its official representative. With the political aspects of the period we are not here concerned, except so far as they affected the measures which were applied in respect to banking institutions; but it must be noted that on that matter

* 2 Ashmead, 406. † Domett, Bank of New York, 87. ‡ 59 Niles, 372; 60 ditto, 22.
§ 60 Niles, 48. ‖ Ibid, 96. ¶ See Chapter 15, on the Liquidation. ** Elliot's Funding, 1176
†† 60 Niles, 187, 272. ‡‡ Gouge; Journal of Banking, 26.

they had very positive influence. The whigs had a majority of seven in the Senate and forty-nine in the House, and Clay made up a sweeping program of what they meant to do, in which it was assumed that the President was to take the role assigned to him. There were many reasons why this arrogant behavior of Clay was galling to Tyler, and was calculated to set a man of his abilities and character in very obstinate and resentful opposition. The first point on Clay's program was the repeal of the sub-treasury, and the second was the charter of a national bank. The first step was accomplished in the Senate June 9th, 29 to 18; but Clay at once called attention to the fact that this would revive the deposit act of 1836, to which he could never consent, and that the repeal of the sub-treasury must go with the other proposed measures as a consistent series. The House repealed both the sub-treasury and the deposit act, and the Senate concurred. This carried things back to the law of 1789, which was substantially the independent treasury without the specie clause. There was still the law of March 3, 1809, which allowed specified disbursing officers to deposit public money in banks.

The Senate called on the Secretary of the Treasury for his project of a bank. It was called a "Fiscal Agency," and was to be located in the District of Columbia; branches in the States if they assent; capital, $30 millions; United States to take $6 millions; to subscribe $9 millions for the States, supposing that the fourth installment is to be paid; government subscription by a stock note at five per cent., redeemable any time after fifteen years; if the fourth installment of the surplus revenue not paid, the States to be permitted to subscribe $10 millions in proportion to their population, issuing stock therefor; if the States do not subscribe, the United States may take $10 millions; seven directors, of whom two appointed by the President; each branch to have not more than seven nor less than five directors, of whom two to be appointed by the State, if the State is a stockholder, and the rest by the head bank; charter for twenty years and two years more to wind up.

This bill was smothered in committee in the Senate, the report declaring outright that the constitutional power of Congress to establish branches anywhere where the interests of the United States called for them must be affirmed and established. Clay's "Fiscal Bank," as it was called, was substituted for it, differing from it principally in not requiring the assent of the States to the establishment of branches. An amendment was made in it that this assent should be assumed, unless the State Legislature at the next session should refuse it, and then Congress might override the refusal if the public interests required it. In this form the bill passed the Senate, 26 to 23; the House, 128 to 97. The "Globe" at once declared that it had information that Tyler would veto it. There was great excitement, and public meetings were held at New York both for and against the bill.

In Tyler's veto message of August 16, 1841, he laid his chief objection on the fact that the bill created "a national bank to operate *per se* over the Union." He argues that in 1833 the United States Bank had carried its

exchange transactions to $100 millions without the employment of extraordinary means. "The currency of the country became sound, and the negotiations in the exchanges were carried on at the lowest possible rates. The circulation was increased to more than $22 millions, and the notes of the Bank were regarded as equal to specie all over the country, thus showing almost conclusively that it was the capacity to deal in exchanges, and not in local discounts, which furnished these facilities and advantages." The exchange transactions produced few losses. "Its power of local discount has, in fact, proved to be a fruitful source of favoritism and corruption, alike destructive to the public morals and to the general weal." He ends with a declaration of his unalterable opposition to any bank created by Congess with the power to establish branches in the States independently of their consent.

At the same time that he vetoed this bill, he signed the repeal of the subtreasury. The State rights men of the strict school to which Tyler belonged laid great stress on the decision of the Supreme Court in the case of the Bank of Augusta *vs.* Earle.* International law was applied to the relations of corporations of one State doing business in another. Formal assent was held to be necessary for a bank of one State to discount notes in another, but as to exchange, assent was assumed until formally refused.

Another bank bill was introduced into the House August 20th, and hastily passed the Congress. The capital was to be $21 millions, increasable to $35 millions. It was to have agencies only, and to deal in exchange only.

In a veto of this bill September 9, 1841, Tyler repeated more than once, and with emphasis, his objection to a national bank acting *per se* over the Union. "It assumes that Congress may invest a local institution with general or national powers. With the same propriety that it may do this in regard to a bank of the District of Columbia it may as to a State bank." He asked for a postponement of the subject to a "more auspicious period for deliberation." He laid great stress on his conscientious and religious motives, his reverence for the Constitution, and his desire for harmony.

The men of 1841 reasoned that the issues of a bank of discount would depend for their value on the discount business. Hence the issues of currency should be divorced from that business; secondly, they reasoned that the government deposits, if put in a bank of discount, would be loaned and could not be recalled when wanted without creating a panic. Hence they were trying to create an institution to issue currency, hold the government deposit, and equalize the exchanges without any real banking function. Nearly all the whigs except Webster treated with scorn and derision Tyler's notion of a national bank. He and his adherents were struggling with the notion of an Issue Department connected with the Treasury. It is not at all impossible that, if the plan could have been set on foot, it might have developed into a good solution of the currency problem.

* 13 Peters, 519.

It is impossible to resist the impression that the zeal on behalf of a national bank was almost entirely political. The struggle of the last twelve years had made the bank a party dogma. At the same time the failure of the United States Bank had been so shameful and had so wounded the vanity of everybody who had been on its side that there was something half-hearted in this fight. It was very hard to carry on a struggle in Congress to charter another Bank of the United States at the very time when the reports of the Investigating Committee of the stockholders of the old one were running through the newspapers of the country in all their shocking newness, and when the officers of the old Bank were being subjected to criminal prosecutions, whose futility was not yet proved. Gouge says that many members of Congress who voted for the bank act were rejoiced at the veto.

During this summer a great number of amateur projects were put forward for a national bank of the type which was then in fashion, and which was expected to obviate the objections to which the failure of the old Bank had given force.

In July, it was stated that the Bank had commenced a suit against Biddle for nearly $700,000, for which no vouchers could be found, including the mysterious $400,000 item.*

The number of defalcations and embezzlements which were brought to light at this period was very great. Only in two or three insignificant cases were the criminals punished by law. It came to be regarded almost as a demonstrated fact that financial irregularities, at least in the region of "high finance," could not be reached by the criminal law.† A list of these defalcations, which was made up by the newspapers, began with the suspended debt of the Bank of the United States, consisting of $20 millions "lent to politicians," and $1.2 millions taken by its officers, for which there were no vouchers. An attempt was made to levy attachments on the debts due by Webster, Biddle, and Riddle; and also on $90,000 which had been put in the hands of Handy, Lewis, and others, with the purpose, as was alleged, of improperly influencing Gov. Porter. December 14th, the grand jury made a presentment to the Court of General Sessions of the county of Philadelphia. "The deliberate opinion of the grand jury is that certain officers connected with the United States Bank have been guilty of a gross violation of the laws." They ask for bills of indictment to be sent up against Biddle, Jaudon, and Andrews, "for entering into a conspiracy to defraud the stockholders of the United States Bank of the sum of $400,000 in 1836, and endeavoring to conceal the same by a fraudulent and illegal entry in 1841." They also ask for a bill to be sent them against Biddle, Cowperthwaite,

* See page 228. At this time $300 were taken from the pocket of Nicholas Biddle as he stood at the post-office window. One newspaper called it "a removal of the deposits," and said that the robber was a "financier." Another said that when he found his wallet was gone, he exclaimed, "I am robbed!" and "as cool and as calm as a summer's morning went to the Bank and drew for $300 more." The tradition is that Biddle was extremely careless in his personal expenditures, and kept no private cash account.

† 6 Banker's Magazine, 230.

Dunlap, and others for a conspiracy to defraud the stockholders of the Bank of the United States of more than $300,000 in 1836, '37, '38, '39, and '40. Also for a bill against Lardner, Dunlap, Price, Lewis, and Handy for conspiring to cheat and defraud the stockholders of the United States Bank of Pennsylvania of about $130,000 in 1840.

The presentment of the grand jury was quashed on the ground that the accused should have had a preliminary hearing before a committing magistrate. Several of the politicians who were in debt to the bank settled. There were three notes for a total amount of $100,000 drawn by C. Hickman or C. Hickman & Co., and indorsed by John M. Riddle, on which Riddle was sued. He declared them forgeries. Hickman was a government director, who was retained as director by Biddle's influence after the charter expired. "Some time since he found it convenient to migrate to South America." Suits were brought by holders of post-notes against two clerks of the bank, to whose order they were payable and by whom they were indorsed. The clerks made affidavits that "these indorsements were mere clerical acts and not designed to create any contracts between them and any other person, and that it was so understood by the community generally."*

In the spring of the following year another attempt to try Biddle and the other officers for conspiracy to defraud the stockholders was made. The Recorder found probable cause against them and bound them over to the General Sessions in $10,000 each.† Some of them went to jail and were released by *habeas corpus* proceedings. The prosecution came to nothing. The proceedings brought the law into contempt, and were used by the loco focos to prove that the law was only for the convenience of the rich and the oppression of the poor.

The Supreme Court of the State said, in 1851: "The charter [of the United States Bank] confers privileges with a prodigality never heard of before. Its insolvency in less than five years could hardly have occurred without criminal improvidence, and must have brought ruin on many citizens, yet no measures were taken either to protect the people or to punish the offending corporation."‡

The special attitude of mind in which everything relating to banks was approached at this time constituted a social phenomenon, and it stood out more glaringly in connection with the United States Bank than anywhere else. The bankers had methods of doing things which were customary and conventional, but which were contrary both to ordinary morality and to law as applied to similar matters outside of banks. The courts recognized and gave validity to these conventions and customs. The banks also disregarded law so habitually that it became a commonplace that law could not bind them. "There is no more desperate undertaking than that of controlling the bank influence, and it is irredeemably and vitally dishonest. * * * This bill [to extend the District banks for two years] is bristled with three

* Gouge; Journal of Banking, 197, 214. † Vaux, Recorder's Decisions, 12. ‡ 5 Harris, 460.

conditions, of which they complain; but of no avail. They will accept and break them with equal indifference."* "The most stringent laws might be passed for the government of banks, yet experience has shown that as long as they had life they would set all laws at defiance as soon as the Assembly adjourned."†

We search almost in vain through the law reports for any decisions on the rights or authority of the State over banks or the duties of banks to the State. It may be said that no attempts were made to test or enforce the rights of the State against banks, and that, as a matter of practice, it had none. The banks were almost irresponsible. Such decisions as bear at all on the authority of the State over banks proceed from the attempts of the banks to resist the exercise of any authority whatever. For instance: the banks which had charters resisted the appointment of Bank Commissioners,‡ which was an exercise of visitorial power, and was the lever by which the States, after 1840, began to reduce the banks to order. They would never have accomplished this, however, if it had not been that the banks themselves were weakened and humiliated by the consequences of their own misbehavior, and, being liable to forfeiture, were forced to come to terms during the liquidation of that period. The States were reluctant and timid, even about taxing banks, when the charter was silent on the subject, although the Supreme Court of Pennsylvania decided, as soon as the case was presented, that "the taxing power is an incident of the State's sovereignty, and the State does not lose it by a charter which says nothing on the subject."§

Three assignments were made for the United States Bank during the year 1841. The first trust was created in May for the post-notes in the hands of the city banks, $5.4 millions in amount. These were provided for by securities to the value of $7.7 millions. The liabilities in Europe, $15.8 millions, were to be provided for by collateral of the estimated value of $24.7 millions. The second trust was for the circulation, deposits, and other bank balances, amounting to $5.4 millions, for which assets were assigned amounting to $12.9 millions. The remaining liabilities were $2.2 millions and the remaining securities, $17.7 millions.‖ The third trust was created September 4th, the city of Philadelphia, as trustee of the Girard fund, having sued the Bank for $1.3 millions which had been loaned to the Bank out of that fund.¶ The United States, about the same time, got judgment against the Bank on the damages for the French bill, and applied to the United States Circuit Court of Pennsylvania for a bill in equity to have the trust set aside and a receiver appointed.** Some stocks, to the value of about $1,000, were reserved out of the assignments, in order to keep up the charter.††

In September, Gouge said that the Bank of the United States must be

* 9 Adams's Diary, 546, May, 1838. † Ford's Illinois, 209.
‡ Commonwealth *versus* Farmers and Mechanics' Bank, 21 Pickering, 542.
§ Bank of Penn. *versus* Commonwealth, 19 Penn., 144. ‖ 60 Niles, 201. ¶ 61 Niles, 32, 70. ** See page 215.
†† 8 Robinson, Lousiana Reports, 287; where the text of the three assignments is given.

reckoned as definitively broken. "It may be revived some years hence as a paper money manufactory." "The firm belief is that the Bank for many years had not $35,000 capital."* During the year there were great fluctuations in the notes of the Bank, which had become an object of very active speculation. They were quoted at 37 to 40 in Philadelphia currency, which was itself five per cent. below par of specie. All those who had debts to pay to the Bank wanted to buy the notes as cheaply as possible, which gave a chance for a counter speculation.

As the Bank had opened an office in London without a British charter, it was maintained that the English stockholders were personally liable for any debts of the agency to British subjects.†

In November money was from seven per cent. to nine per cent.; stocks falling; bank capital locked up in the post-notes of the Bank of the United States. The Girard Bank, to save its charter, paid a dividend of one cent per share. "The truth is, we are in a sad way in Pennsylvania with regard to money and Bank matters."‡

The Towanda Bank, in the northern part of Pennsylvania, several times made arrangements with agents in Philadelphia to redeem its notes. When they had thus gained currency, the agent ceased to redeem and the notes fell to a heavy discount. It accepted the relief system and issued $100,000 more than its share. The State Treasurer refused to receive any of its bills in payment of public dues. November 19th, its agent in Philadelphia ceased to redeem. The "Public Ledger" said: "Hundreds of poor laborers were to be seen running in every direction with their hands full of the trash and not able to induce a broker to give a sixpence in the dollar for them. We passed in the market a woman who makes her living by selling butter, eggs and vegetables, who had almost all she was worth, about $17, in Towanda bank notes. When apprized that it was worthless, she sank down in agony upon her stool and wept like a child. This is but one of a hundred similar cases, for the market has been full of the trash for a week or more."§

In his message, December, 1841, Tyler said that he had a plan of a "Fiscal Agent" ready, which would be sent in by the Secretary of the Treasury if Congress asked for it. They did so. According to this scheme no capital was to be subscribed by individuals; governed by a Board of Exchequer at Washington, appointed by the President, with the consent of the Senate, the Secretary of the Treasury and the Treasurer of the United States being ex-officio members of the Board; to have two branches in each State and more if Congress so directs; the Board is to nominate and the Secretary of the Treasury is to appoint officers of the branches and the Board is to fix their compensation and establish by-laws for their government; to issue notes from $5 to $1,000; to pay the public creditors with its own notes or

* Gouge; Journal of Banking, 87. 180. † Ibid, 230 ‡ Bicknell's Reporter in 61 Niles, 176.
§ Gouge; Journal of Banking, 168.

specie or the notes of specie paying banks; to receive deposits of specie to an amount not exceeding $15 millions and give certificates of deposit redeemable only where issued, with interest at one-half of one per cent.; to make no local discount; one branch may sell drafts on another at a premium never exceeding the cost of transporting specie and never exceeding two per cent.; such drafts on places distant 500 miles or less to be for no longer time than 30 days from date, on places distant over 500 miles, not longer than 30 days from sight; drafts to be discounted at not over six per cent.; no branch is to deal in bills of exchange or accept deposits in any State if the State forbids it; to make settlements with neighboring banks weekly; all dues of the United States to be paid in specie, notes of this bank or notes of specie paying banks immediately convertible where received; the amount of specie on hand at each branch to be always equal to one-third of the amount of its issues; the note issue to be $15 millions; the resources of the bank to consist of government bonds, of which the head bank at Washington may issue not more than $5 millions at five per cent.; a contingent fund of $2 millions to be formed from the profits, after which the profits to go to the Treasury; the accounts of the government and of individuals to be kept in separate books; its own officers to have no dealings with it on their private account; to report to Congress at the beginning of each session; defalcations by the officers are felonies to be punished by fine and imprisonment; it may appoint State banks as its agents; suits to be in the name of the United States; it is to be a corporation with five commissioners constituting a Board, two being ex-officio, as above stated, the other three holding office for six years with a vacancy every two years and irremovable except "for physical inability, incompetency, or neglect or violation of duties;" the officers of the branches to be irremovable without limit of time, "except for physical inability or incompetency, or neglect or violation of duty;" the bank may be dissolved by the concurrent action of the President, the House, and the Senate. This scheme was called the "Exchequer." It was clearly a long advance towards a mere Issue Department of the Treasury. The whigs had said of the proposed banks of 1841 that they offered no inducements to capitalists, which would cause the capital to be subscribed. This one called for no subscriptions, but, for that reason, it had no interest for those who wanted a bank as a business enterprise and chance of profitable investment. It therefore never received serious attention, although it was made a text for long speeches in the party warfare.

Although the whigs had fought fiercely in 1841 for almost any kind of a national bank, yet in 1842 they nearly all agreed with Webster that a Bank of the United States, founded on a private subscription, was an "obsolete idea."* Perhaps the "unkindest cut of all" was that the Whig Almanac for 1843 called "Nick Biddle a rascal" and spoke of his Bank as one which was "corruptly managed."

* 1 Webster's Works, 135.

The President reiterated the recommendation of the Exchequer in his message of 1842; but it was defeated in the House, January 27, 1843, by a vote of 193 to 18. It is remarkable how completely dead the whole subject of a national bank had then fallen.

In January, 1842, it was said that the Pennsylvania relief notes had produced a depreciation of the whole circulation, and that it would have been greater but that it had not been found possible to issue as much as the measure contemplated.*

The Bank of the Northern Liberties refused the notes of the Girard Bank, January 27, 1842. This produced a run on the latter to which it speedily succumbed. The Bank of Pennsylvania was the fiscal agent of the State. The Treasurer had accumulated in it, in anticipation of the payment of interest to be made on the State debt, February 1st, the sum of $788,000; chiefly in checks and notes on the Girard. The Pennsylvania thus became possessed of so many of the latter, that it paid them out, expecting to pay the interest with its own. It was subjected to a run on the 27th. In three days it paid $406,086 of its deposits and $60,692 of its notes. It then posted a notice that an injunction was expected upon the application of the Governor. Such an injunction was issued. Four other Philadelphia banks failed at this time.

These events produced a panic. No one knew what money was. Some paid their debts with their money in haste before it should be good for nothing. Those who were not in debt lent it to their friends. There was a run, not for specie, "for none was visible, but what seems ludicrous, a run to exchange one bit of paper for another bit of paper."†

The "Commercial List" of Philadelphia could not quote bank notes and specie and exchange after the failure of the Pennsylvania and Girard, on account of the confusion. Specie was at ten per cent. premium, exchange on New York seven and a-half. The New York "Price Current" of the same day showed no material variation in that market from the previous rates, except for Pennsylvania, West Jersey, and Ohio notes.‡

The interest on the Pennsylvania debt was paid by the Bank of Pennsylvania with a nominal advance of four and a-half per cent. but in notes which were eight per cent. below specie.

A Committee of Investigation of the stockholders of the Girard Bank found that the assets, which amounted nominally to $5.6 millions, were worth $756,771.

Upon the failure of these banks, the Legislature once more took the matter of banks and resumption in hand and passed an act, March 12th, ordering the banks to resume immediately, with a proviso that the relief notes should be received by the State but not by the banks. The relief banks fell back on the bargain in the relief bill, and the others said that they had no official notice of the passage of the act. The relief notes fell at once,

* Gouge; Journal of Banking, 211. † Gouge; Journal of Banking, 247. ‡ Ibid, 248.

some fifty per cent., some twenty-five per cent. Nine Philadelphia banks which had not failed agreed to resume March 18th. The exchange turned in favor of Philadelphia and $500,000 in specie was taken thither from New York.

The opinion was expressed that the real object of the law for the immediate resumption of specie payments was to compel the banks which had kept out of the relief system to come into it.*

All notes under five dollars, except relief notes, were made unlawful, June 24th. An appraisement law, with no sale unless two-thirds of the appraisement was obtained, was passed July 16th. This was the stage of abasement to which the great State of Pennsylvania had been brought by five years of the Biddle policy; a flood of State paper money and a stay law. The one motive of Pennsylvania for all the bad public action of this period was the faith in her "internal improvements," and the desire to complete them. This motive entered into the rivalry with New York. The worst consequence of the conviction that there was a public policy which would lead ultimately to some results so grand that any steps which would further it must be adopted, no matter how bad they were, was the ever ramifying and extending political and financial corruption. "Our internal improvement system," said Gouge, "seems to be almost as corrupt and corrupting as our banking system. The jobbing and the favoritism it gives rise to, and the manner in which it increases executive influence, makes some Pennsylvanians almost regret that railroads and canals ever were invented."†

From 1826 to 1857 Pennsylvania spent on the main line of her canal $18.6 millions. In 1857 she sold the whole for $7.5 millions. On branch canals and unfinished public works, she spent before 1844, $14 millions. Additional expenditures on the same before 1858 were $2.4 millions. These were all sold in the last-named year for $12.9 millions. The loss on the whole was $24 millions. The reason given for selling was, however, that the works caused political corruption.‡

The statement is made that, in 1843, Pennsylvania sold out the bank stock owned by the State, the par value of which was $2,533,676, for $389,056.§

In answer to a call of the Senate the Secretary of the Treasury attempted, in a report of February 12, 1841, to estimate the loss which the government and the people had incurred from banks. The Treasury had lost on bank notes, received before 1837, $5.5 millions, and by depositories, before the same date, $900,000. On bank notes taken since 1837, the loss was $40,000. This was a justification of the policy pursued in 1837, and which was so bitterly denounced at the time, by which the federal government cut loose from the banks and created its own currency of treasury drafts. The num-

* Gouge; Journal of Banking, 311. † Journal of Banking, 375. ‡ Penn. Bureau of Statistics, 1873-4.
§ Martin; Boston Stock Market, 15.

ber of banks which had failed since 1789, was 389; the estimated loss on their circulation was $18.1 millions, and on their deposits and bank balances as much more. The net loss by suspension of banks which had resumed, or were expected to resume at the time of writing, attributable to the depreciation during suspension, was put at $95 millions, of which all but $22.5 millions belonged to the period 1837 to January, 1841. The loss by counterfeits since 1789 was set at $4.4 millions. In this report the Bank of the United States was not counted as definitely bankrupt. Of the losses during the following three years, in which the banks underwent a sweeping destruction, we have no estimate.

Gouge* estimated the losses of Philadelphians in two years before July, 1842, at $50 millions. "Of the losses sustained by depreciation of bank notes and bank deposits we have seen no estimate. The aggregate must be enormous, but it is divided among a great number, and as part of the loss is suffered on one day and part on another, the people are able to bear up under it. A direct tax of half the amount would have caused a rebellion."

One writer of this period disputed the current notions of the great advantage from banks; maintaining "that banks as they have been managed have been among the retarding, and are not to be reckoned among the accelerating, causes of the accumulated wealth of the country. Reasonable proofs are found in treatises and essays of our own writers that the currency, as it has been managed by the banks the last thirty years, has cost the country more money than the whole peace expenditure of the government would probably have amounted to, under a metallic currency, or a mixed currency so managed as to be subject to no greater fluctuations than are incident to a metallic currency."†

Gallatin was of very much the same opinion: "It may with truth be affirmed that the present situation of the currency of the United States is worse than that of any other country. * * * No hesitation is felt in saying that whatever may be the presumed advantages of a moderate use of a paper currency convertible into specie on demand, to have no issue of paper would be far preferable to the present state of things."‡

Perhaps the best writer who undertook to controvert the Biddle theory of banking was Samuel Cox.§ He disputed Biddle's assertion that "the banks of this country have been the great instruments of its improvement." He referred to the physical, social, and political causes, and maintained that the country would prosper by virtue of these, with banks or without. No one has ever criticised better than he did the notion that banks create capital. He understood the need of a new country for capital and the phenomena which it produced, which were generally otherwise explained.

* Journal of Banking, 276.
† Lee; Letters to the Cotton Manufacturers, quoted in 2 Macgregor; Progress of America, 1117.
‡ 3 Gallatin's Writings, 384 (1841).
§ Banking and Currency, 1838.

CHAPTER XV.

The Liquidation; 1842 to 1845.



MASSACHUSETTS.—The full force of the revulsion of the period whose history we have recounted in the last preceding chapters appears perhaps more distinctly than anywhere else in the following statistical statement about the banks of Massachusetts, which shows it in a comprehensive and yet concise form. The New England States escaped comparatively easily from the troubles of the period, yet the Massachusetts banks, which were the leading ones of the section, had their share in it, and these figures show that they went through the full measure of the liquidation. These figures are also the fairest representation we can find of the fluctuations and vicissitudes of the banking system of the country, where it was not dominated by the big Bank of the State experiments or by the mania for "internal improvements."

The ratio of specie to the bills in circulation and to the sum of the circulation and deposits in all the banks in Massachusetts for the years given:*

Date.	No. of Banks.	Ratio of Specie to Circulation.	Ratio of Specie to Circulation and Deposits.	Date.	No. of Banks.	Ratio of Specie to Circulation.	Ratio of Specie to Circulation and Deposits.
1820	28	1 to 2.04	1 to 4.52	1832	83	7.89	11.15
1821	28	0.98	3.10	1833	102	8.55	12.57
1822	33	3.31	6.72	1834	103	6.59	10.82
1823	34	3.02	6.04	1835	105	8.29	13.06
1824	37	1.98	4.68	1836	117	7.48	13.52
1825	41	5.76	8.29	1837	129	6.76	12.34
1826	55	4.83	6.82	1838	120	3.92	6.90
1827	60	4.54	6.58	1839	116	4.28	7.94
1828	61	6.36	8.34	1840	115	3.06	5.90
1829	66	4.81	7.38	1841	111	3.06	5.80
1830	63	4.07	6.90	1842	105	3.00	5.74
1831	70	8.41	13.19	1843	104	1.41	2.72

* Treasury Report, August 10, 1846.

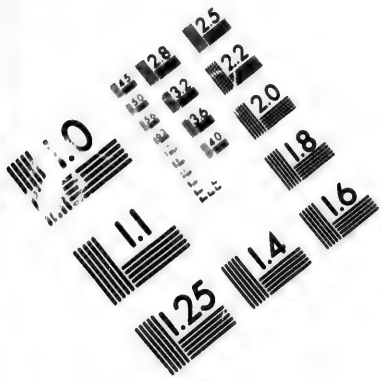
According to a table in the report of the Bank Commissioners of Massachusetts, 1841, the banking capital of that State varied as follows: in 1803, $2.2 millions; from 1803 to 1816, it continually increased to $11.4 millions; from 1816 to 1817 it was reduced to $9.2 millions; from 1817 to 1820 it continually increased to $10.6 millions; from 1820 to 1821 it was reduced to $9.8 millions; from 1821 to 1829 it continually increased to $20.4 millions; from 1829 to 1830 it was reduced to $19.2 millions; from 1830 to 1837 it continually increased to $38.2 millions. We may add that it was then reduced to $30 millions in 1844.

By a law of 1840, no bank was allowed to pay out any but its own notes. The president of the Suffolk Bank informed a country bank president, who wanted help, in 1841, that the bank was making no discounts. "Our discount sheet is entirely closed, and we do not even look at the applications."

NEW YORK.—After a great political struggle, in 1842, the public works of New York were suspended and taxes were imposed to sustain the credit of the State.

A question arose whether the payments out of the safety fund were to be made to redeem the circulation of the banks in the order of their failure, and an injunction was obtained against the Comptroller to force him to take that course. The movement was in the interest of other creditors of an insolvent bank besides the note-holders. Consequently, April 12, 1842, the safety fund system was further modified, so that any part of, or all, the money in the bank fund could be applied at once to the payment of the notes, the banks being taken in the order in which the injunctions were granted. This applied the whole safety fund to the redemption of the note issues. The banks were also allowed, within six months, to commute for the payment of the three per cent. which they would have to pay to the safety fund within the next few years, paying with the notes of any insolvent bank, and receiving interest at seven per cent. on the sum paid until the time when it would become due. A large part of the notes which were a charge on the safety fund were at this time held in masses by banks and brokers who had taken them as collateral for loans. As the redemption of the circulation of the banks was to be taken up in the order of the injunctions, these masses of notes would so absorb the fund that the holders of what was called the legitimate circulation of the banks which failed later would be forced to wait a long time. At the same time the banks which commuted could pay in the notes of any insolvent bank, even of one which failed after the law was passed; but those notes, the redemption of which was delayed, depreciated. Hence the Comptroller, in his report of 1844, said that the law of 1842 had benefited the banks and brokers, but that it had not "secured that relief to the great mass of the bill-holders which was anticipated, and which is promised in the title of the act." The banks paid in, in 1842, in advance, in the notes of insolvent banks, $477,609.

No bank in New York City would discount any note or bill in October,



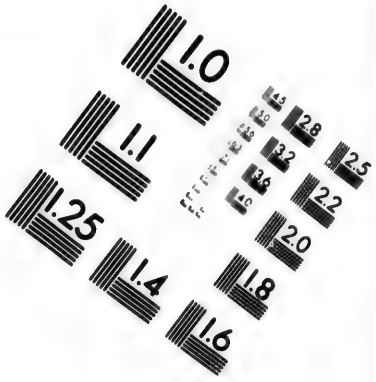
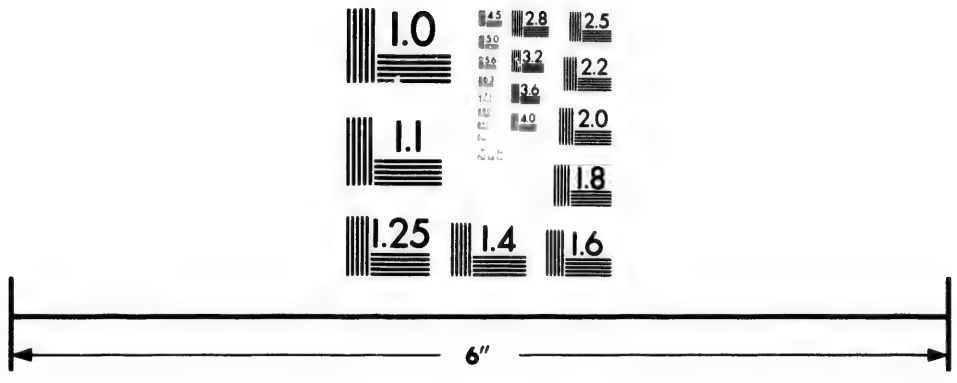
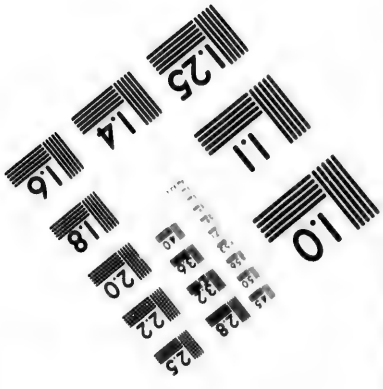


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1842, which was payable in the interior of any southern or western State.*

The exchanges in May, 1842, at New York, were as follows: England, eight and one-quarter premium; Boston, Philadelphia, and Baltimore, par or one-quarter discount; Virginia, five and one-quarter; Charleston, one and one-quarter; Augusta, two; Savannah, two; Mobile, twenty-five; New Orleans, six; St. Louis, five; Cincinnati, eight; Nashville, fifteen; treasury notes, one-quarter;—discount.†

The Governor in his message, January, 1843, said that the bonds held for the State circulation were worth at par $4.6 millions; that their market value was $1.6 millions; all the mortgages and stocks together were worth less than the circulation by $0.5 million. A year later his statement showed that the securities were a little in excess of the circulation. As to the safety fund, it was in arrears $579,353, for the notes of the insolvent safety fund banks.

In 1843, the office of Bank Commissioner was abolished, and the duties were transferred to the Comptroller. Every chartered bank was required, on July 1, 1843, to deliver all its bank-note plates to that officer, and to make a return to him of all bank notes created by it then in existence. All notes issued before that date were to be countersigned by the Comptroller before July 1, 1844, or to be redeemed and destroyed in his presence. After that he was to cause to be printed, countersigned, and registered such notes as each bank might require, being within its lawful limit. Every bank in the State was to make quarterly reports to him, and he was to appoint an examiner for any bank whenever he thought there was reason to do so. The Comptroller remonstrated against this last provision.

The general banking law was so amended that only bonds of the State of New York could be deposited as security for circulation. The terms were so stringent that bonds of the United States were excluded.

Ninety-three banks were incorporated under the general banking law before 1844. Of these eight failed to organize, twenty-six were closed by the Comptroller, who redeemed of their circulation $1,153,984, at a cost of $881,070, leaving $27,974 outstanding. The stocks on deposit, January 1, 1844, at the average value of the preceding year, just about equaled the circulation which had been issued against them.

The provision of law by which country notes might be redeemed at a discount of one-half of one per cent. led to a new device. The Comptroller, in his report of 1844, mentioned a case of a bank organized under the free banking law in an out-of-the-way place in Orange county. Its nominal president lived in Connecticut and all its business was done in New York City. The arrangement was devised in order that it might make one-half of one per cent. on such of its notes as were presented for redemption in New York City.

* 63 Niles, 128.

† 62 Niles, 208.

All the banks of DELAWARE, six in West Jersey, and fifteen in the interior of Pennsylvania resumed about March 20, 1842. The report from Delaware, in 1847, was: "Delaware has, up to the present time, never had a broken bank."*

PENNSYLVANIA.—Philadelphia paper was quoted at par for the first time March 26, 1842.† Of the rural districts it was said that every county in Pennsylvania had its own currency.

In January, 1843, "Bicknell's Reporter" said of the relief notes: "If any one can devise an immediate plan whereby the people can get rid of about $700,000 of paper trash, he would be entitled to the name of a public benefactor."‡ A month later, the Legislature orderered the Treasurer to cancel $100,000 per month, but in April they reduced this amount to $50,000 and resolved to make further attempts to sell the public works. The total amount of the relief notes issued was $2,186,550; the amount outstanding in June was $684,521.§ The number of counterfeits was said to be equal to the original.

Mention is made of these notes from time to time, during the following years, in the Governor's messages and other documents. The statements of the amount outstanding do not show a steady diminution. In 1860, the Auditor-general reported that there were still $102,336 outstanding, including re-issues.‖

After 1842 it becomes very difficult to follow the liquidation of the United States Bank. It was dropped and forgotten as soon as possible. There was great dissatisfaction with the proceedings in liquidation, on the part of the residuary interest. The Bank seemed always to get worsted, although it could not be said to be wronged. In January, 1842, a meeting of stockholders tried to revoke the trusts. A fuller meeting, two months later reversed this. This meeting was "large, tumultuous, and disorderly."¶ Mr. Schwab, of New York, cited the trustees to show cause why they should not give security for the faithful discharge of their trusts. The decision was against him. Two acts were passed, one May 4, 1841, vetoed by the Governor, but passed over the veto; the other, May 5, signed by him, under either of which the trustees might be appointed without the requirement of bond or inventory.

The Bank had bought the Merchants' Bank of New Orleans for $1,076,500 in order to use it as an agency. In April, 1841, that bank was worth, at the market, $906,000. The best bid which the liquidators could get for it, at which they sold it, was $575,000, from Edward Yorke. In its assets was the sum of $334,427 in specie. Gouge wanted "to know the exact value of all the bank stock in the country estimated on like principles." The secret was that the Bank of the United States could not use this specie, because the charter required that the Merchants' Bank must always keep one-third of its

* Treasury Report, Aug. 10, 1848. † Gouge; Journal of Banking, 312. ‡ Quoted 63 Niles, 309.
§ 64 Niles, 233. ‖ 15 Bank. Mag., 663. ¶ 8 Robinson, Louisiana Reports, 298.

capital in its vaults in specie.* This bank was pressed to sale because creditors enjoyed especial facility for attachments in Louisiana.†

In August the Bank of the United States at New York went into voluntary liquidation and redeemed all its notes. In order to secure its position as an independent ally and so avoid collision with the law of New York, it had been established on a relation of contract, and the two gentlemen in control of it had been guaranteed a yearly payment during the continuance of the charter of the Pennsylvania Bank. The latter now wished to wind up the New York institution as if it had been a dependency, but the managers stood on their contract for the remainder of the term for which the charter was to run. Arbitrators gave them $101,613; also $76,948 for the unexpired term of the lease of the banking house which they owned.

In April, 1842, the Legislature undertook an investigation of the proceedings of the United States Bank to influence legislation, in connection with the relief measures of 1840.‡ George Handy, a director of the Bank was summoned to testify, but refused and was imprisoned in the Capitol until he submitted. He surrendered letters from the lobbyists of the Bank, which contained expressions about dealing in "lumber." His examination was interrupted by his arrest at the order of the Governor, who caused criminal proceedings to be instituted against him, although he had turned State's evidence under a pledge of immunity. The Legislature, by joint resolution, March 29th, ordered the Attorney-General to enter a *nolle* in any criminal proceedings against him for conspiracy. According to Gouge's statement the Court discharged him, declaring that there was no evidence which would justify his being held in arrest, and the same of the lobbyists inculpated with him. The Governor, by his interference, had blocked the legislative investigation, which was developing the evidence, and the Court held that the evidence was not sufficient for a criminal prosecution. "The condition of that State is deplorable in which the people lose confidence in their legislative, judicial and executive authorities; yet such is the present condition of Pennsylvania, if the sentiments of the inhabitants of the rest of the State are to be judged of by those of the citizens of Philadelphia. The general belief here seems to be that the banking interest exercises an improper influence in all the departments of government."§

The United States levied on assets of the Bank of the United States, at New Orleans, in 1844, to try to recover outstanding claims, including the French bill and $89,606.12, due on the last bond for the stock of the United States in the Bank. The court sustained the assignments, and so cut off this claim.‖

There were nine banks in Philadelphia which did not fail in 1841 or 1842. The Pennsylvania, Mechanics, Manufacturers and Mechanics, Penn Township, and Mc'amensing (changed to Bank of Commerce) recovered. From

* President's Report, 1843. See page 389. † 8 Robinson, Louisiana Reports, 287. ‡ See page 339.
§ Gouge; Journal of Banking, 359. ‖ 8 Robinson, Louisiana Reports, 262.

January, 1842, to November, 1845, the fourteen banks reduced their capital from $9.3 millions to $7.6 millions. The circulation went down from $2.3 millions to $2 millions in April, 1842, and then up to $4.1 millions at at the later date. Post-notes were reduced from $915,388 to 0. Specie and specie funds increased from $1.3 millions to $3.9 millions. This was the contraction to which Philadelphia was forced before she escaped from the trials and humiliations of this period. How much did she gain by not taking it as New York did in 1837? The student of finance will seek far for another experiment so exact, comprehensive, and conclusive.*

The Girard Bank was revived in 1845, its capital being reduced from $5 millions to $1.25 millions.

The administration of the trusts of the United States Bank received little public notice. The assignments were sustained in Court.† In Shelby *vs.* Bacon, the trustees of the third assignment simply answered that they were performing the duties of the trust and making annual reports to the prothonotary.

The stockholders held a meeting June 5, 1848, in order to try to find out the situation of the various trusts and the chances that there might be any surplus for the residuary interest. They obtained some information, but were advised not to publish it, and the meeting ended with the appointment of a committee to guard their interests.

A movement in the stock occurred in December, 1851, with sales at from one dollar to two dollars per share. The cause of this was not known. Perhaps it was correctly ascribed to action of Dutch stockholders who started an attempt to pursue the assets.‡ Any hopes which may have been entertained were overthrown by the decision that the Bank was still liable for the annual bonus.§

In the following year, on account of this decision, the stockholders voted to apply for an act to wind up, and appointed five trustees in liquidation, to whom a general assignment was made. The president and directors had been trying for years to get the foreign bondholders to accept the collateral and divide it amongst themselves in settlement. As the State bonds increased in value, they became more willing to do this, and a distribution was reached in 1853.‖

The act to "close finally the trusts of the late Bank of the United States," February 3, 1855, provided that the claimants might divide the assets of the third trust under the supervision of, and an appraisement by, auditors. The trustees were then to be discharged and claims cut off. In the following August the final dividend of the third trust was advertised.¶

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* See page 286.

† United States *vs.* Bank of the United States. 8 Robinson's Louisiana Reports, 262. Dana *vs.* the United States Bank, 5 Watts and Sargeant, 223; Shelby *vs.* Bacon, 51 United States, 56.

‡ 6 Bank. Mag., 498, 502.

§ 5 Harris, 400.

‖ Answer of the Respondents in Batard *vs.* Bayard.

¶ 10 Bank. Mag., 153.

It appears that the notes and deposits were all paid, whether with interest or not is uncertain. Private inquiries make it seem probable that the other domestic creditors got about eighty per cent. The stockholders got nothing. It has been calculated that the United States made $6 millions out of the Bank of the United States. This result is reached by setting the cost of the government stock and interest paid on the same, until it was converted into cash, against the bonus, the dividends, and the amount received for the stock.*

Nicholas Biddle died February 27, 1844, aged 58. John Quincy Adams said of him in 1840: "N. Biddle has a fair mind, a brilliant genius, a generous temper, an honest heart, waylaid and led astray by prosperity, suffering the penalty of scarcely voluntary error. It is piteous to behold."† The men who had flattered him and pushed him on to folly, when he appeared to be a leader who could serve their purposes, turned upon him and insulted him when he failed,‡ as of course he was bound to do; but if he had been a man of straightforwardness and rectitude of character, this whole story would have been very different.

VIRGINIA.—In April, 1840, the teller of the Bank of Virginia absconded, being a defaulter for about half a million. He had begun by allowing overdrafts.

The Virginia banks resolved to resume with the Baltimore banks, and did resume about January 15, 1841, but suspended again a little later. The bad and doubtful debt to the Bank of Virginia was then $910,848, including the teller's deficiency.§

February 10th, the banks were allowed to issue ones and twos under the same conditions as before, until January 1, 1842. The notes of the Merchants and Mechanics' Bank and of the Northwestern Bank were not to be received by the State unless they would desist from using post-notes for any sum under $500. All penalties, forfeitures, and remedies against banks were further postponed, March 15th, until January 1, 1842. The fifteen per cent. penalty for non-redemption was suspended until June 1, 1842. At the next session there was further postponement until April 1, 1842, and finally the day for the resumption of specie payments was set at November 1, 1842. The Governor, in his message of 1841, said that he could not urge speedy resumption because the State owed the banks $350,000 which it could not pay. The banks resumed September 15, 1842.‖ It was asserted by a well informed writer that the bank directors of Virginia owed to the banks a sum equal to one-quarter of their total capital. The directors generally owned only enough shares to qualify.¶ In May there were reports of outrages in the State to prevent sheriff's sales and action of the courts against debtors.

The banks were allowed to issue small notes payable in specie to the

* Report of the Comptroller of the Currency, 1876, p. 129. † 10 Adams's Diary, 361. ‡ Ingersoll, Second War, 286.
§ Treasury Report, March 3, 1841, and August 10, 1846.
‖ Governor's Message, 1842. ¶ Gouge; Journal of Banking, 359.

amount of six per cent. of their capital, until October 1st, by a law of January 26, 1843. March 4, 1846, an act was passed reciting that the Bank of Virginia had lost thirty per cent. of its capital, and wanted the par of its shares reduced to $70, which was allowed.

At the session of Congress, 1839-40, strenuous efforts were made to obtain the passage of a law to revive the District of Columbia banks, but they failed.

NORTH CAROLINA.—The waves of financial elevation and depression in this State do not seem to have coincided with those in the other States. It had a great inflation in 1829-30 when the others were at their best.* The revulsion of 1837 to 1843 seems to have passed over it with little effect.

The Governor stated, in his message of 1840, that within four years the banks had paid to the State, in dividends and taxes, $253,201; "the most conclusive proof of their value to the State." This was nearly half its total revenue.

SOUTH CAROLINA.—After the suspension of 1839, the Bank of the State of South Carolina and the Bank of Charleston alone sustained specie payments. The former was called on to redeem $288,000 of its circulation within a year, even the ones and twos being returned.† The Governor, in his message of 1840, said: "The recent suspension of specie payments by most of the banks of our State calls for some decisive action. The legal remedy which the bill-holder has amounts to nothing. In modern times the refusal to redeem a note is a common bank operation, and he must be endowed with more than ordinary firmness who will make the demand, as he is sure to encounter the insulting, contumacious spirit of a chartered gentleman."

The Legislature passed a resolution, December 19, 1838, that the Bank of the State should take the best measures it could devise to preserve all the bank notes in the State at par. In 1840, the banks of the State were divided into those which were paying specie and those which were not. The Southwestern Railroad Bank, the Bank of Charleston, the Planters and Mechanics' Bank, and the Bank of the State entered into a voluntary agreement to try to keep the country notes at par of specie.

The banks of this State resumed in June or July, 1840.

It was enacted, December 18, 1840, that if any bank should suspend the payment of its notes in specie, it should pay to the State every month five per cent. of its circulation outstanding at the beginning of that month, until it should resume. Reports and examinations were also provided for, and every bank which had suspended was required to give notice that it accepted these obligations within three months, or legal proceedings were to be instituted to vacate its charter.

The income obtained from the fire loans, in 1840, was not equal to the interest on the fire bonds by more than $50,000, which the Bank of the State was obliged to advance.‡

* See page 176. † Report of the Bank of the State for 1840. ‡ Its Report of 1840.

From 1814 to 1841 the Bank of the State of South Carolina earned on an average more than seven per cent on the capital placed by the State in it. In the latter year the president, in his report to the Legislature, said: "The collection of the debts due to the bank and its branches is becoming every day a more important subject of consideration. The present system is one of great inconvenience and risk. The debtors are scattered over all parts of the State, and when a note or other cause of action is sent to suit, it, in a great measure, is lost sight of, especially if the party defendant lives in a remote district." In 1843 the same officer declared that the bank and all its branches had not "exhibited for many years a more healthful, vigorous, or sound state of its affairs." He renewed, however, his expressions of anxiety about the debt to the bank, and desired that a power of attorney to confess judgment might be inserted in the bonds given to it for loans. A proposition was made in the Legislature in the last mentioned year to wind up the bank, or to separate it from the State, or to compel it to call in its notes under $5; but it failed. The president took up the question whether a bank which was a loan office could maintain a circulation. If it was nothing else but a loan office, he doubted if it could; but an institution which was a loan office and a bank of commercial discount and deposit at the same time could do so. The difficulty is to adjust the proportion between the two. He felt warranted in his opinion by the facts of the suspension of 1839. Six of the seven banks in Charleston were purely commercial; five suspended specie payments, while the Bank of the State paid in specie all its notes which were presented, and at the same time paid off more than $1 million of other liabilities.

The voluntary attempt of the leading banks of Charleston to enforce redemption of the country notes did not succeed. The Bank of Charleston, in 1842, received the notes of all the banks in the interior of the State at par. They had previously been subject to a discount of one-half of one per cent. In six months it sent home nearly $1 million for redemption.

As soon as the United States Bank and other banks ceased their management of the foreign exchanges, no further difficulty was experienced with them. They regulated themselves, the business became normal, and we hear no more discussion about it than about the supply of groceries. The Bank of Charleston reported, in 1841, that it had not had a foreign exchange bill returned for a year, and that the interior exchanges with South Carolina, Georgia, and North Carolina had produced no loss and no addition to the suspended debt. In 1843, the Bank of the State of South Carolina and its branches engaged in legitimate exchange dealing on cotton, the result of which was to bring the trade to steadiness and regularity.*

In 1843, the State sued out a *scire facias* against the Bank of Charleston for suspending in 1837, although it did not suspend in 1839. The act of 1839 about this bank, recognizing its present and future, was held to be a waiver of forfeiture which had been really incurred. The Court also sug-

* Report of the Columbia Branch, 1844.

gested that the matter of suspension having been referred to the Legislature by the Governor, in 1837, and suspension having been acquiesced in, this might perhaps also be regarded as a waiver.*

The financial storm was comparatively mild in South Carolina. The State had not been much affected by any of the prevailing manias. According to the reports of the Bank of the State, 1841 to 1844, it was prosperous in a modest way. Its profits are stated at from $225,000 to $250,000 per annum.

The Bank of Charleston issued, in 1844, checks on New York in denominations of five, ten, twenty, and fifty dollars, payable also in Charleston. They were issued for the convenience of the traveling public.

GEORGIA.—The capital of the Central Bank, in 1835, was $2,593,912. In 1837 the share of the State in the distribution of the federal surplus was put in it. This sum was kept separate and losses were charged against the former sum which was thus reduced, before November 2, 1840, to $930,589. The State was consuming in appropriations and interest the capital of the bank. At the preceding session the bank had been ordered to distribute $750,000 in loans amongst the counties, for "relief." "These loans have been eagerly sought by our citizens. By this operation the profits of the bank have been increased by the sum of $45,000, and its notes by the sum of $750,000." The measure, however, was the death blow of the bank. "The heavy amount of debts due by the people, the low price of property and commodities, and the poor reward of labor have rendered the collection of money due the bank exceedingly difficult. Our receipts have been greatly increased by the moneyed facilities arising from our distribution of $750,000, which is now completed. This distribution has almost entirely been loaned in small sums, and the great amount of indebtedness thus transferred from creditors, who would not wait, to the bank, which will await the annual return of the industry of the planter, has operated as a relief to thousands of our most meritorious citizens. * * * Time has proved the unsoundness of a large amount of claims which have been due to the State for thirty years and upwards. Experience is daily developing difficulties in collecting notes heretofore regarded as secured in the amplest manner."† A committee of the House on this report was not at all satisfied with it. They insisted that the heavy exchange against the State was due to the depreciation of its currency, and was no reason for not putting the funds in New York to pay the debt there, since the creditor had nothing to do with the internal troubles of the State. "Whenever it can be shown to be honest and sound policy to levy money out of one citizen's pocket to loan to another, certainly not more and probably much less meritorious, then ought the policy of the Central Bank to be sustained; but not till then." They proposed a law to require the banks to resume, February 1, 1841, under penalty of forfeiture.

* 2 McMullen, 439.

† Report of the Central Bank, 1840.

This committee introduced a bill which was passed, December 23, 1840, to repeal the act of December 21, 1839, for absorbing into the Central Bank the stock owned by the State in other banks, and to provide for an issue of bonds of the State to the amount of $1 million in sums not less than $5 each, redeemable in five years or sooner, bearing eight per cent. interest, with which to redeem the notes of the Central Bank, and pay the excess of the appropriations over what the Central Bank could properly pay. These bonds were to be a debt of the Central Bank, to the cancellation of which its assets were to be applied as fast as they could be realized. Any one who held Central Bank notes to the amount of $5 or more might obtain these bonds in exchange for them; but all which were brought in by any one person within a week, up to $500, were to be redeemed in one bond. The stock owned by the State in the Bank of the State and the Bank of Augusta was to be sold not below 90, by the Central Bank, in order, with the proceeds, to pay its debt to the Phœnix Bank of New York.

The appropriation bill of the same day ordered the Central Bank to provide the means to cash the treasury warrants outstanding.

During the summer of 1841 the Central Bank and a number of others failed. The substance had all been eaten out of the Central Bank by the measures which the Legislature had adopted during the last four years; that is to say, by the attempt of the State to live on it. In July Gouge reported: "The Bank of Darien is now 'broken to all intents and purposes.'" The amount of its issues was uncertain and in fact unknown. In the same month it was reported: "The Chattahoochee Railroad Bank of Georgia which has just closed its doors is said by the "Jeffersonian," published at West Point, Ga., to have been a stupenduous fraud. The whole country is flooded with its issues amounting to millions, and yet it never had ten thousand dollars of specie in its vault. Its nominal capital was $3 millions, but it is averred that three million cents were never paid in. The very first step in obtaining its charter was a fraud on the Legislature, as the making of a road was never in serious contemplation." Now it is said to have failed. As specie payments were suspended how could it fail? "There is scarcely a man or a woman in that part of the State who has any bills at all but has most of them on this bank."*

In connection with these difficulties a custom was introduced which became somewhat famous as the "Macon specific." Prices were set in specie and, if notes were offered, they were taken at their quotation.

The Bank of the State of Georgia avoided with considerable difficulty a suspension in 1841. There was a defalcation in the branch at Macon by two prominent officers, and a falsification of the note issue to the extent of more than $50,000. The bank complained of the oppression of specie-paying banks due to the extensive circulation of the notes of the non-specie-paying banks. In the following year these complaints were renewed. The circu-

* Gouge; Journal of Banking, 22.

lation of this bank had been reduced to $226,993, while it held specie $201,261.

The bank circulation of this State was $8 millions in 1836; $1.7 millions in 1841; $2.4 millions in 1846.

In October, 1841, the State owned $325,000 of the stock of the Bank of Darien. Of the stock formerly owned by individuals, the bank had bought in all but $94,145. Therefore the State owned the wreck, and it was a question if it was not liable for all the debts.*

At the session of 1841-2, the Legislature began by an enactment, December 10, 1841, that if the banks which were liable to forfeiture would resume by January 1st, all proceedings should be arrested. On the same day the charter of the Darien Bank was repealed. The Central Bank was ordered to take its assets and wind it up, extending the loans if necessary or expedient. The Central was also to receive the notes of the Darien Bank in payment of debts to the Darien. Interest on the debt of the State was to be paid at the Central Bank. The act for issuing eight per cent. State bonds to redeem the circulation of the Central Bank was also repealed, and that bank was ordered to make no loan until it could hold its circulation at par with that of specie-paying banks. No note of an insolvent person might be used as banking capital on which a note issue might be based.

November 24th, banks were given the right to recover damages if they could not collect balances from other banks. The free banking act was amended, December 7th, to authorize the Comptroller, if banks did not redeem, to foreclose mortgages in the banking fund and sell land and slaves by the same process by which personal property might be sold. The president and directors of the bank were to indicate which mortgages should be sold. December 8th, the Central Bank was authorized to issue ones and twos to the amount of $300,000, to be issued only in exchange for larger notes. The prohibition of small notes was maintained against the other banks. December 10th, it was directed to sell the stock owned by the State, in the Bank of the State and the Bank of Augusta, and with the proceeds to redeem its own notes.

In the following May, there were reports of outrages in Georgia to prevent sales by the sheriff, and judgments by the court against debtors.

In the report of the Bank of the State of Georgia, April 26, 1842, it was shown that the dividends must be passed, which had occurred only three times before,—namely, in 1823 and 1824, since 1816. Three of the branches were withdrawn, defalcations having taken place in two of them and the parent bank being under a heavy burden to redeem their circulation. The report of this bank for 1843 showed that the circulation was still but slightly in excess of the specie stock.

December 27, 1842, all the solvent specie-paying banks were allowed to issue ones, twos, threes, and fours, for not more than five per cent. of

* 18 Georgia, 73. See page 370.

their capital. December 13th, it was enacted that banks which have forfeited their charters shall be wound up by three commissioners appointed by the Governor, suit to be instituted against the stockholders for any deficiency; but this was not to apply to the Central Bank.

All the acts of the last four years which had laid burdens on the Central Bank were repealed December 22, 1843. Payments on account of the State debt and of the appropriations were to be made at the treasury, which thus once more assumed all its own fiscal functions which were taken from the bank. The Central Bank was to do no more business. Any surplus revenue of the State was to be applied to the payment of its notes, which were to be burned. A number of the banks were at this time winding up under assignment. The assignments were approved by the Legislature because nobody could be found who was willing to be a receiver.

December 28, 1843, it was enacted that after February 1, 1844, all payments from the State treasury should be in specie or specie funds. The Governor was authorized to issue bonds at seven per cent., payable in New York, for not more than $150,000, in order to get the fund. An equivalent amount of Central Bank notes was to be withdrawn from the treasury and burned. The charter of the Central Bank was extended in liquidation, from time to time, until 1860. In an act of February 22, 1850, it was recited that the State was liable for claims on account of the Darien Bank, many of which were believed to be illegal and unjust. The directors of the Central Bank were ordered to inquire on what terms they could all be settled. In 1854, there was an arbitration between the State and the creditors of the Darien Bank. The Governor was authorized by law to issue bonds to settle the State's obligation. A number of suits were begun against the State, in 1855, to test its liability for the debts of the Bank of Darien. It was held that the debt of an insolvent to the State had priority over other debts, which priority the State did not lose by becoming a stockholder; furthermore, that, as the State had redeemed more than half the circulation of the bank, it had no further liability as a stockholder.* In 1856 the assets of the Central Bank were absorbed into the treasury.

FLORIDA.—A stay law was passed in 1842, postponing execution upon the payment of costs and ten per cent. on the debt every sixty days. The Governor, in his message of January, 1843, said that it was good but did not go far enough; and he recommended a redemption law, with liberty to the debtor to recover his property within a specified time by paying to the purchaser the price, with interest.

The Committee on Corporations of 1842 charged the managers of the Union Bank with negligence and every kind of abuse and malfeasance in banking, but declared them all vices incident to the system on which the bank was based, and not the peculiar fault of the managers.

We have seen that the Territorial Council chafed under the attempts of

* 18 Georgia, 65.

Congress to restrain them when they were engaged in their wild banking legislation.* Now this committee made it an argument for repudiating the Territorial debt that the bonds had "been created by a government not of the people, but placed over them—a mere temporary arrangement by Congress, a police regulation only, a fugacious institute, three removes below even the Legislature of a State, and which, in chartering this bank, [Union Bank of Florida] and issuing these bonds, has attempted to usurp two of the highest attributes of sovereign power. These agents of federal authority in the selection of but part of which to rule over us the citizens of Florida are permitted by Congress to have a voice have, by this charter, sought to make us subject to their unlimited taxation, and render our posterity hereditary bondsmen."

The Governor, in 1845, charged upon the federal government "an unwise and ruinous legislation * * * worse, if possible than war, pestilence, and famine,—I mean the blighting influence of a corrupt and corrupting paper system, so utterly rotten that I cannot undertake its dissection."

The renewed Bank of Florida went into operation in 1843. A year later another Governor had to report upon "the evils which have attended the renewal of the Bank of Florida, the last in the series of infatuated experiments." He quoted sarcastically the passages in the messages of the two previous years, in which the former Governor had introduced this new enterprise with approval, the latter one he says, uttered "but a few weeks before the bank escaped your jurisdiction by flight."

The debt of the Territory was $500,000 for Indian wars and $3.9 millions for banks.†

In January, 1844, all the banks of Florida were defunct. Speaking of the Union Bank, the Governor said: "The principal cause of the delinquency of the bank may be traced to the elements of its organization. By the provisions of its charter each stockholder had a right to draw from the bank, as a permanent loan, two-thirds of the value of the property mortgaged by them as an indemnity to the Territory. This right has almost invariably been exercised, and thus two-thirds of the whole capital of the bank, raised on the faith and responsibility of the Territory, has passed into the hands of a few individuals, who, with a trivial exception, have been unable or unwilling to pay the interest. There is now due the bank, from the accumulation of interest on these loans, $216,000, and for interest on accommodation paper a greater amount, which has produced a total inability on the part of this institution to pay the interest due semi-annually to the bondholders. The bank has, in many instances, resorted to legal process to compel the delinquent stockholders to comply with their engagements, but, so far as I am advised, it has been hitherto unsuccessful; and the opinion is entertained by many that the stockholders may continue to enjoy the loan

* See pages 248, 318.

† Johnson's Report on Assumption.

until the expiration of the time specified in the mortgages (most of which have yet upwards of twenty years to run), without the payment of any portion of their annual interest, and continue, at the same time, to enjoy the possession and use of the property mortgaged to the bank. This opinion appears to me as absurd in its conception as it is demoralizing in its tendency."

The Secretary of State of Florida replied to the inquiries of the Secretary of the Treasury, 1847: "The General Assembly of this State, doubting the right of institutions of this character chartered by the Territorial Legislature to exercise corporate privileges in this State, has not acted on their reports or legislated concerning them." The same officer replied, in 1848, that the authorities of the State had avoided any communication with the banks, lest they should appear to recognize their pretended charters and legal existence. The banks were always referred to in public acts as "alleged" or "pretended." The notes of the Union Bank were worth 20 cents on $1 and those of the Life and Trust Company less.

ALABAMA.—An act was passed, February 3, 1840, which was another link in the extension system begun by the act of June 30, 1837, whose consequences we shall soon see. It was made lawful for the Bank of the State and branches to collect twenty per cent., and interest, on all debts to the bank, including the extended debt, until the Legislature otherwise orders, in such a way "as to conform to the safety of the said several banks and to the ability of the debtors to discharge the same;" the debtors giving security. It will be observed that the three years' extension from 1837 would expire in the following June, when, if the debtors had fulfilled the terms of the extension, all the old accounts should be cleared off. Resumption was postponed until July 1, 1841. The Bank of the State at Tuscaloosa and the branches at Montgomery and Huntsville were "authorized" to issue each $500,000 in twelve months' post-notes; the Mobile and Decatur branches were "required" to issue the same. The Board of Control was abolished. The Planters and Merchants' Bank of Mobile and the Bank of Mobile were authorized to issue post-notes, lowest denomination $10, at twelve months, to any amount they think best, not exceeding $500,000 each; but the Legislature reserved the right to change this permission.

The Governor, in his message of 1840, stated that two sets of directors elected by the Legislature, and the members of the Legislature of two successive years, obtained accommodations to a larger amount, and will probably be the cause of greater loss to the banks, than the whole community besides.

The report of the president of the Bank of the State at Tuscaloosa, October 4, 1840, stated that the amount of debts due to that bank and made extendable by the act of February 3, 1840, amounted to $3.9 millions. The amount actually extended up to the time of this report, was $1 million. The bank construed the section of the same act which authorized each of the specie-paying banks to issue $500,000 in post-notes, and each of the

suspended banks to issue the same amount in counter notes, as an order to extend the circulation and business of each bank. This bank had acted on that understanding.

A committee of the directors of the same bank said that the books of the bank for 1839, the period they were set to investigate, "seemed to be in great confusion, with errors almost on every page, to correct which it would require, in the opinion of your Committee, the services of at least two competent clerks for twelve months." They were trying to find how a leaf had been cut out of the check-book and had disappeared.

The Commissioners on the same bank, in their report of November 5, 1840, stated that they had given particular attention to the cotton transactions, which had been persisted in until immediately before. "It will be difficult to imagine any cause that ultimately will be so disastrous to the institution." They anticipated reclamations to be made on shippers for a deficiency in the realizations compared with the advances, to the amount of $478,747. "In view of the vast amount of reclamations as shown; the great number of bales never delivered, the payment being almost universally resisted (without exception, it is believed, in all large amounts), with the most confident hope of defeating the bank of its just dues; and many of the parties believed to be insolvent, or have taken measures to be so, as regards the bank—taking all these things into consideration, a more ruinous and reckless administration of the affairs of the bank could not well have been devised." They complain of the negligence and remissness of the officers of the bank in regard to pursuing debtors, and a delinquent attorney of the bank. They had ascertained a certain loss of $540,761, and anticipated losses on cotton to the amount of $700,000. Forced balances had been made in the books to cover errors.

The Commissioners on the Mobile branch, 1840, reported that its surplus or sinking fund of $1 million consisted only of book-keeping entries, showing apparent profit, and discount charges which had not been collected or realized. "We are afraid that its qualities as a sinking fund are altogether imaginary and that a much larger amount will be swallowed up by the hopelessly bad debt." An illustration of what they meant, and also of the way in which the "relief" actually came to the debtor, is furnished by the following facts: The extension laws enjoined strictly that at every renewal twenty per cent. of the debt must be paid, and interest in advance at eight per cent. "The bank rule has been to compute discount for the whole term at eight per cent., and require notes which at that rate of discount would produce the net amount of the whole debt in cash." This produced an annual interest rate of about thirteen and two-thirds per cent. The Commissioners showed that the excess of immediate liabilities over immediate means had increased, in 1840, $512,890, "which is about the amount which the Legislature required the bank to issue of its own paper, by the relief act of the 3d of February last, at a period when the utmost prudence was required to give some hope of so reducing its liabilities as to be able to

prepare for resumption." They tried to find out the value of the assets. The amount of paper under protest was $4.6 millions, of which there was in suit $1.9 millions. Of the bills discounted, not under protest, twenty per cent. had been extended, under the relief law of February, 1840. Of the remainder, $1.7 millions, a large part consisted of paper which had been extended under the relief law of 1837, "which will take its place at maturity among protested paper or paper further extended. It follows that of the immense debt due to the bank, hardly ten per cent. exists in a form which justifies any calculation upon its being made available or active within any definite period. * * * The new transactions within the last year or two have been few, and they are generally safe; but it is the load of debt accumulated in former years, under which the bank broke down, in 1837 and 1838, that has, under the State policy of extension, been weakening its resources and eating out the substance of its assets constantly."

A report of the president of the Mobile branch, at the same time, stated that the errors which had been discovered in the bills discounted amounted to $378,036, and in the bills protested to $52,853. As the notes which had been discounted by that bank since it began amounted to $48 millions, he thought these errors comparatively slight.

The Commissioners on the Decatur branch reported that they found its books "kept in a style of the utmost clerkly accuracy." "From all the information they have been able to obtain, they have ascertained the amount of bad debts to have swollen to a fearful and an enormous height." They estimate them at $1 million. The amount of debts in suit was $981,966. The Commissioners are afraid that the plan of demanding security on property for accommodation loans will arouse the animosity of the public against institutions, and they find that, in spite of care, "the property substituted has been at the most inflated rate of valuation." The president of this branch reported that he had hoped, under the extension law, to recover all the debts "which had the least appearance of being good," but he regrets to say that "many of undoubted character have been suffered to remain suspended, without any apparent effort being made to comply with the requisitions of the bank." This is valuable testimony to the only natural and inevitable effect of the extension laws,—namely to induce the honest and solvent debtors not to pay, lest they should, in that way, fail of some indulgence which their negligent comrades would get. If any did pay, there would be a glaring case of that inequality which the advocates of Banks of the State were always trying to avoid.

The president of the Bank of the State, in 1840, said of the independent Bank of Mobile: "It has successfully withstood all the commercial and financial derangements the country has recently suffered, and now deservedly sustains a high character for credit and strength surpassed by none in any section of the country."

The suspension of the Bank of the State was sanctioned April 27, 1841, until the Legislature should otherwise order. The requirement in the act of

June 30, 1837, that this bank and its branches should provide themselves with gold was suspended, but the two chartered banks in Mobile were required to have in their vaults, on July 1st of each year, one-half of their note issue, but not more than one-quarter of their capital, in specie.

In the report of the Bank Commissioners for 1841, a long list of notes which they found in the Montgomery branch of the Bank of the State is given, with notes and comments. These are almost always to the effect that the principal and sureties are not worth a dollar. There are three notes signed by the same three persons in turn, as principal and sureties. One is the father, who is reported as a poor man; the other two are his sons, ten and four years of age. An agent of the bank recommended some notes for discount which he received from two persons whom he did not know. They were discounted and a person whom he did not know called on him with an order for the money, signed he does not say by whom, but he gave him the money and took his receipt, signed "C. Stone." He can only say that it was not the only "C. Stone" known to him. Later events prove that this agent was a knave and not a fool. It turned out that the notes which he had thus sent in to the bank were forged.

A law was passed December 27, 1841, that any member of the Legislature who nominated a director of the State Bank or branches should state in writing the amount of indebtedness of the candidate to the bank and branches, whether he was under protest, and was solvent and competent. December 31st, the authorities of the State Bank and branches were authorized to settle as well as they could unknown, bad, and doubtful debts to the bank. A joint Investigating Committee was ordered to be raised to investigate frauds on the State Bank and neglect, abuse, and misconduct in the management, with full powers.

The Planters and Merchants' Bank of Mobile fai'·d October 25, 1842. Its charter was forfeited and receivers were appointed to wind it up by an act of February 13, 1843.

At the session of 1842-3, the affairs of the State Bank become a preponderating subject of interest. December 31st, joint resolutions were adopted in regard to preparations for liquidating the branches at Mobile and Decatur. They are no longer to lend on notes and bills, or to settle with debtors; but may accept payments offered, or may buy in property sold at the suit of the bank.

The Montgomery Branch was put in liquidation January 25, 1843. Its notes were to be received for debts to it and destroyed. Quarterly settlements were to be made with the Bank of the State and its branches. It was provided that whenever the State Bank and the surviving branches should resume, they should redeem the notes of the Montgomery Branch as well as their own. Similar acts were passed in regard to the other branches. February 13th, the right of any plaintiff in a suit against the State Bank and branches to have garnishment against a debtor of the bank was taken away. On the following day it was provided that during suspension by the Bank

of the State it should discount no note except for renewal, nor deal in bills of exchange except to pay interest on the State debt. Thirty per cent. damages were laid upon any bill bought by the bank, which should be protested. The number of officers was reduced and the bank was ordered not to pay out any more notes. Small notes might be issued in exchange for notes of $100 or more. All the specie of the branches was to be controlled by the Bank of the State at Tuscaloosa, and the president and directors of that bank were to provide for the interest on the State bonds issued for the branches. The Commissioners under the act of 1833 were directed to examine the bank and branches, especially the expense account from January 1, 1835, with reference to certain illegal expenditures. The Governor was to institute suit, such as the facts might call for, to recover the illegal expenditure. On the same day with these enactments, joint resolutions were adopted against assumption and repudiation.

The Legislature renounced the function of electing the directors of the Bank of the State, December 15, 1843, assigning it to the Governor. A measure was also adopted to extend until 1850 the bonds which would fall due in 1844.

The debt of Alabama, in 1844, was $14.1 millions, of which $9.2 millions was for bonds outstanding, "issued by the State in aid of her late banking operations." The total included $3 millions bank notes and also the university and school fund, $1.2 millions, which had been used up. The Committee on Ways and Means had come to the conclusion "however reluctantly, that not more than $7 millions of the debts due from individuals, including real estate and all available assets, can ever be realized" from what is due to the banks.

The Commissioners to examine the Mobile Branch in 1844, found errors and discrepancies in the accounts, in regard to which they said: "The general source of the error is the want of system and carelessness of the officers in former years by which confusion and discrepancies were introduced, which no possible amount of labor can now trace and correct." Having examined the debts due to the bank amounting to $5.7 millions, they valued them at $2.3 millions, fearing that they had put them too high. They valued the real estate owned by the bank at $250,000. It stood on the books at $1.3 millions. Recapitulating all the assets, they found that they were worth $2.6 millions, although standing on the books at $7.4 millions. The total liabililities were $6.1 millions, so that they found a deficiency in this one Branch of $3.4 millions. The clue to the accounts of the bank must have been entirely lost. "In the year 1840, after much trouble and the application of the labor of two clerks to the investigation of these books, the further prosecution of the task was abandoned as hopeless."

The Governor, in his message of 1845, referring to the losses which the various investigations had discovered, said: "The causes which have brought about these continuous and heavy losses are readily discovered by a recurrence to the history of their management, the whole tenor of which

proves, beyond doubt, that less regard has been had to the interests of the bank than to the convenience and accommodation of their debtors." The outstanding loans of the bank and branches, in 1837, had been $20 millions, of which about $100,000 were considered bad, and $500,000 doubtful. Then came the extension law of June, 1837. In 1840, the bad debts had increased to more than $3.5 millions and the doubtful were $1.5 millions, while a new item was introduced, "unknown debt," amounting to more than $1.25 millions. Then came the act of February 3, 1840, the effect of which was that in 1844 the good debts were $6.9 millions, the doubtful $484,132, the bad $6.2 millions. "This cursory glance at the history of the legislation and management of our banks must clearly show that the extension laws and the manner of their execution were the principal causes of the immense losses sustained by these institutions." As the bank and branches were now defunct, he took it for granted that no one would propose to re-issue the notes after they should be paid in in taxes or debts to the bank. "This suicidal policy, I trust, will not be adopted, even as a temporary measure. It involves the same principles which have too long prevailed in the management of our bank,—favoring the bank debtors at the expense of the taxpayers of the State. * * * Bank debtors should understand that the laws are intended to operate equally on all, not to spend their force on one portion who regard them; then to be changed and modified to suit the convenience of other portions who treat them with neglect. * * * In connection with this subject, I submit to your consideration the propriety of causing a rigid scrutiny into the conduct of the officers, attorneys, and agents, under whose management the astounding losses to our banks have accrued, holding them to a strict accountability."

The Bank of the State at Tuscaloosa was put in liquidation December 31, 1844, the day on which its charter expired by limitation. From this time the old independent Bank of Mobile was the only bank left in the State. November 12, 1844, it had $1.5 millions capital, $1.4 millions loans, $791,459 specie, $486,440 circulation, $465,443 deposits.

The liquidation of the Bank of the State and its branches was regulated by an act of January 25, 1845, in which the consideration of leniency to the debtors still prevailed. All debts to these banks were extended until June 1, 1846, if, before June 1, 1845, the debtor paid one-third of the principal, with interest and costs, and gave additional security. Also all execution on judgments in favor of the bank was postponed one year if one-third of the debt was paid and new security given. All debts were to be put in suit between June 1 and July 1, 1845. Good ones were to be extended; bad ones put in the hands of an agent for collection; the real estate of the banks was to be sold, the plates of bank notes destroyed, and incomplete notes burned.

February 4, 1846, the assets of the banks were vested in three trustees who were to be appointed for a term of two years, to compound and settle "at the earliest day that the same can be done, having regard alone to the

interest of the State." The debts which had been extended to 1846 were now extended to 1847, if one-half was paid before June 1, 1846, provided that the Commissioners were of opinion that the State would not lose. No more notes of the Bank of the State were to be burned unless it was necessary to do so to stop depreciation. A report of the trustees under this act made December 20, 1847, showed that they had accomplished much towards the liquidation of the bank. They had collected $3.4 millions, and they estimated the remainder, which was collectible, at $2.2 millions. They had taken up in their collections, of the circulation of the bank, $1,142,000. The amount still outstanding was $457,177. The notes were at that writing nearly equal to specie.

In 1850 the Legislature began to pass special acts, extending debts to the Bank of the State on behalf of individuals.

The trustee of the Bank of the State was directed, February 4, 1852, to sell the stock owned by the State in the Bank of Mobile, and to pay off the $600,000, five per cent. bonds, which had been issued wherewith to buy it. When this should be done the capital of the bank might be increased from $1.5 millions to $2.5 millions; two-fifths being reserved for the State while the charter runs. Five days later the charter was extended twenty years from the date of expiration, $100,000 bonus was to be paid in installments of not less than $5,000 per annum.

It appears that the earnest hope which had been expressed by the Governor in 1845 that the notes of the Bank of he State would not be re-issued was not fulfilled. On the contrary they seem to have circulated until the civil war. They could only be regarded as pure bills of credit after 1847. An act of February 16, 1854, ordered the trustee to give notes fit for circulation in exchange for the worn notes in the State treasury; the latter to be burned by State officers. The unmutilated notes under $5, which were in the treasury, were to be given out in exchange for large notes to any one who desired them, and the small notes were to be receivable by the State. An act of February 14, 1856, about loans to railroads, shows the notes of the Bank of the State and branches still in circulation. The Governor, in his message of 1857 expressed the opinion that the time had come when the circulation of the old Bank of the State notes should no longer be tolerated. At length, January 22, 1858, a law was passed that all the notes of the Bank of the State and branches in the treasury should be burned, and also all those which should come in thereafter. Laws for the extension of the Bank of the State in liquidation were repeated until the civil war.

MISSISSIPPI.—The Legislature of 1840 turned against the banks. Some charters were repealed. February 6th post-notes were forbidden; any bank which issued them was to forfeit its charter; resolutions were adopted, February 13th, in regard to the prevailing distress, the causes, and the remedies. The chief cause was declared to be "excessive banking." They declared that paper issues stimulate speculation and extravagance; that it was the duty of the United States and the State governments to remedy

evils due to "unwise and reckless legislation," that metallic currency was the only one known to the Constitution of the United States. They pronounced in favor of the independent treasury with the specie clause. February 15th, all unauthorized banking was forbidden. It appears that there was a great deal of it. Notes issued by unauthorized banks were declared void and such banks were forbidden to do a discount and deposit business. No shin plasters were to be allowed to pass after sixty days from the date of this law.

A relief law was adopted February 21st, with the old device of three valuers and two-thirds of the valuation or no sale.

An act requiring the banks to pay specie was passed February 21st; the limit of note issue was set at three times the specie on hand; semi-annual statements were provided for; post-notes forbidden; also dealing in cotton or other commodities as collateral, or merchandise; $5 notes must be paid in specie from April 1, 1840; tens from July 1st, twenties from October 1st, and a general resumption was ordered January 1, 1841. Any bank officer who refused to endorse on a note his own refusal to redeem it might be fined $1,000 and imprisoned three months; no director was to have a loan in his own bank. Voluntary and involuntary liquidation were provided for. On the next day it was provided, by a supplementary act, that if a bank went into liquidation, any railroad charter connected with it should go on. In a case which arose under this law, it was held that it did not impose any new duty on banks or infringe their charters, and was therefore valid.*

In February, the Brandon Bank wanted to close its branch at Paulding. A public meeting was held at that place to remonstrate, at which a committee was appointed, who took possession of the books, papers, and other property belonging to the bank, and held possession of them so as to make removal impossible.†

In March, the banking affairs of the State were reported to be all in confusion. The liabilities of the Union Bank in May would be $4 millions, and its rescources were nearly all suspended. Hence the desire to recall the second $5 millions of State bonds which had been issued to this bank. The correspondent of a Mississippi newspaper said: "The credit of the State has been banked to death. Insolvency is now our name. Never was State in such an awful condition. The cry of 'relief' is heard on all sides, but what can a State do that is unable to pay its Legislature and the current expenses of government?" Brandon notes were quoted at nine cents on the dollar; the losses of the Union Bank on cotton were immense. The debt of the State called for a payment of $120,000, for interest, in the year 1840, and an installment on the principal of $125,000 on the 1st of January following. To meet this, the resource was a sinking fund loaned out to one hundred and ninety-five individuals, on which, in the opinion of

* 6 Smedes and Marshall, 622.

† 57 Niles, 420.

a committee of the Legislature, not more than $200,000 could be realized in the course of four years.*

May 23d, the "Free Trader" said that there was not a dollar of par funds in the Treasury. The public printer would not print a document until he was paid in good money.†

Under the resumption act of February 21st, the Governor proclaimed, July 10th, that the Union Bank had forfeited its charter by suspending the payment of its notes.‡ Some time in the autumn, that bank made an assignment. The report in December was that lands and negroes had lost one-half their value; that on the expiration of the year of delay, under the appraisement law, the population was leaving the State for Texas. "Banks are in the worst odor possible."§

The Commercial and Railroad Bank of Vicksburg made an assignment, in 1840, in order to cut off the creditors of the bank, that is, the note-holders, until the railroad should be built. This assignment was overthrown, being a withdrawal of the assets from the rightful claim of the creditors.‖

We can learn scarcely anything about the liquidation of the Union Bank. The State ignored it. There is scarcely a trace of it in legislation or court records. The trustee of the Bank of the State of Alabama, in 1847, speaking of the plan of selling the credits of the bank at auction, objected that that plan, in the case of the Union Bank of Mississippi, had proved to be almost a complete sacrifice of them.

Among the first acts at the session of 1841 was one to repeal the law of May 12, 1837; to guard against the insolvency of banks, and to secure the rights of creditors.

Governor McNutt, in his message, January 5th, stated that the Union Bank had $4,349 in specie on hand; suspended debt in suit, $2.6 millions; ditto not in suit, $1.7 millions; resources chiefly unavailable, $8 millions; immediate liabilities, $3 millions; not more than one-third of the debts could be collected and the whole capital was lost. "The bank has seven thousand bales of cotton in Liverpool unsold, on which it has drawn $267,116.14. An advance of $60 per bale was made to the planters upon that cotton in 1838. They will sustain a clear loss, including interest, of $30 per bale; equal, in the aggregate, to $210,000. The bank has been irretrievably ruined by making advances upon cotton, issuing post-notes, and loaning the principal portion of her capital to insolvent individuals and companies. The situation of the Mississippi Railroad Company and of the Planters' Bank is equally bad. The former, in the year 1839, issued about a million and a-half of post-notes, and expended them in constructing the railroad and building extensive depots. I certainly would not have approved the transfer act, had I anticipated this improvident course." The company has failed to pay the interest on the Planters' Bank bonds. The Bank of the United States has

* 58 Niles, 115. † 58 Niles, 182. ‡ 6 Howard, Miss., 626.
§ 59 Niles, 219. ‖ 9 Smedes and Marshall, 396. (1848).

advanced the same, and has presented an account against the State for $124,222.22, and demanded payment thereof in specie. The first installment of the Planters' Bank bonds, amounting to the sum of $125,000, will be due next July. No provision has been made for its payment. One of the circuit Judges has decided that recoveries cannot be had on the notes belonging to the sinking fund. The fund is especially appropriated to the payment of the two first installments of the Planters' Bank bonds. The Mississippi Union Bank, hereafter, will be totally unable to pay the interest on the five millions of State bonds issued in the year 1838.

The state of things at this point of time was this: The Planters' Bank bonds had been sold originally at a premium amounting to $200,000, which sum had been invested as a sinking fund for the same bonds. The bank won ten per cent. per annum during the years of prosperity. This success of the enterprise was the cause of the extravagant degree to which the State committed itself to banking in 1836 and 1837. Then the State ordered the bank to transfer this capital to the Mississippi Railroad Company. The latter never, apparently, used its railroad enterprise for anything else than to get this capital. The bank paid over the capital by scrip which became worthless, but which had nothing to do with the bonds. The Railroad Company had become responsible, as was supposed, for the bonds, just as the bank had been responsible before. It, however, had served its purpose and was defunct. As to the Union Bank bonds, the Governor speaks of three lots of them, two of five millions and one of five and a-half millions, although, under the amended charter, by which the State took five millions of stock, it would appear that there should never have been but ten millions of bonds. The first five millions had been negotiated. He had executed and delivered the second five millions. He reported with pride that, by his proclamation of March 2, 1840, he had made it impossible to negotiate them; likewise that he had refused to execute and deliver the third lot of five millions and a-half.

In answer to the Governor's recommendation of repudiation, the Legislature resolved that the State was bound for both the Planters and Union Bank bonds, and that the insinuation that she would repudiate them was "a calumny upon the justice, honor, and dignity of the State." *

Some of the Union Bank bonds were deposited as collateral for the debentures of the Bank of the United States. The interest was defaulted, May 1, 1841, whereupon Hope & Co., of Amsterdam, wrote a letter of remonstrance and inquiry to Governor McNutt. In his reply the Governor complained that if the Union Bank had to bear the loss by the credit sale and the change of currency, her means would be reduced and the risk of the State increased. He gave five reasons why the State would not pay. The bonds were sold on credit; they were made payable in pounds sterling at

* 18 Banker's Magazine, p. 95; where the resolutions are quoted in full. They are not to be found in the Session Laws; perhaps because McNutt did not sign them.

four shillings and sixpence to the dollar;* the contract of sale was fraudulent; the purchase by the Bank of the United States was in violation of its charter; the bonds were sold at less than par.† He said that he denounced the sale to the Legislature as illegal, in January, 1839. He declared outright "this State never will pay the $5 millions of State bonds issued in June, 1838, or any portion of the interest due or to become due thereon."

"It was not until July, 1841, that the doctrine of Repudiation was announced to the world—and then by the very last man in the world from whom it should have proceeded, Governor McNutt. We have nowhere seen it advanced that even a minority of the Legislature of 1839 made any movement of repudiation which might at least have served as a notice of intention."‡ On the contrary, that Legislature was angry with McNutt for his animadversions on the negotiation of the bonds, and passed resolutions of approval of that negotiation.§

Governor McNutt wrote a letter to the "Richmond Enquirer" saying that a demand would probably be made on the government of the United States for payment. "This will raise an exciting and perplexing question. The State has defined her position and will maintain it, be the consequences what they may. I firmly believe four-fifths of the people of the State prefer going to war in lieu of paying the bonds."

The repudiationists won a great triumph at the November election, 1841. They had two-thirds in each House of the Legislature. The immediate effect was that all State stocks fell. At the opening of the following session of the Legislature, Governor McNutt said that the recent election was a glorious triumph. It had "sustained the sacred truth that the toiling million never should be burdened with taxes to support the idle few." The State had lost $302,988 by the notes of bankrupt banks which it had taken. He wound up his message: "The banks in this State have sunk about $20 millions in relieving the financiers. *They* will receive their last relief in the bankrupt act."

At the session of 1842, the Legislature was trying to undo the work of 1836-7. February 28, 1842, an act was passed to provide that the State should take over the assets of the Mississippi railroad and sell them at auction. Bonds and coupons of the State were to be receivable for them. The act aimed to stop the sale, by the railroad, of scrip of the Planters' Bank, which had been issued for stock of the State in that bank, and had been transferred to this railroad company in 1839, and also to stop the sale of the same by persons or corporations who held it hypothecated.

February 26th, resolutions were adopted with respect to the Union Bank,

* The bonds issued by Louisiana for the Citizens' Bank bore on their face an alternative denomination, £100 or $444.44.

† The cashier of the Union Bank published a letter, September 26, 1838, in which he stated that the bonds had been negotiated "for five millions in gold and silver." (4 Banker's Magazine, 339.) This was a prevarication of the kind which bank officers in those days uttered without compunction. The Supreme Court of Pennsylvania held that "par" of post-notes meant: with accrued interest. (10 Harris, 479.)

‡ Democratic Review, April, 1842.

§ 8 Banker's Magazine, 493. The resolutions are not in the Session Laws, perhaps because McNutt did not sign them.

which constituted a great step in the history of repudiation. They recited that the Legislature had no authority to raise money, to execute a law deemed by the authors of these resolutions repugnant to the Constitution of the United States and of Mississippi; that the supplementary act to incorporate the Union Bank was "a fundamental change of said original charter, passed contrary to the letter and spirit of the Constitution of the State, and adopted without the assent of her citizens as required thereby;" that the $5 millions bonds [the first lot delivered to the bank] were issued without reference to the people or compliance by the bank with the original conditions of the charter, and "are not binding on her [Mississippi's] citizens, and cannot be paid by this State while the form of its Constitution remains;" and that the Governor by his proclamation shall forbid the sale or hypothecation of the second $5 millions now in the bank.

The subject of repudiation had now attracted the attention of the whole country and of Congress. There were groups of persons, more or less numerous, in all the indebted States, who were in favor of repudiation. Jacob Thompson of Mississippi made a speech in the House, January 10, 1842, in which he not only defended repudiation, but gloried in it, as a noble and righteous defense of liberty and American principles. The following extract from the report of a committee of the Mississippi Legislature illustrates the tone and the principles on which repudiation was defended. The committee feel that the people of Mississippi have taken a patriotic stand. "They are not controlled by selfish or mercenary motives. The low and grovelling consideration of dollars and cents has nothing to do with the merits of this question. Their honest obligations they will fulfill, should they have to divest themselves of the comforts and necessaries of life to do so. Higher and holier motives than mere pecuniary considerations actuate them. They have determined that they never will submit to an invasion of their Constitution by either foreign or domestic foes. The rights secured to them under that sacred instrument they will maintain at all hazards; and relying on the correctness of their principles and the justness of their cause, they will, with confidence and cheerfulness, submit to the verdict of posterity."

No doubt the attention of the reader has already been drawn to the marvellously lax way in which everybody treated the bond issues. Other cases of the same thing will follow below. The Governors signed bonds and delivered them to banks or improvement companies or Fund Commissioners, almost without accountability. In this case, McNutt did not take the lowest precautions before issuing the bonds to see that the interests of the State were guarded, that the law was complied with, or that the bank had fulfilled the conditions. Much less did he look to the future for any guarantees that the bank would perform its stipulations. He was once subjected to interrogatories, we are not told by whom: "For what purpose, and under what authority, did you sign and deliver said bonds?" He made irrelevant replies, and cited the example of "Jefferson and the illustrious

father of the republican party" to justify himself in signing the act for the Union Bank in spite of his opinion that it was unconstitutional.*

The bonds being thus carelessly signed and executed by the Governor, in any one of the debt-contracting States, were generally thrown into the hands of agents who undertook costly journeys at the expense of the State, exacted and gave extravagant commissions, hypothecated the bonds for a fraction of their value with bankers who failed and involved the collateral in their bankruptcy; or sold them to be paid for in installments, delivering the whole in advance, so that when the bankers failed, as a great many of them did. the bonds had passed out, by sale or as collateral, into the hands of innocent holders, and the States obtained nothing for them. What wonder that the whole system was a carnival of waste, extravagance, and peculation, and that all persons who had a share in it behaved in the loosest and most irresponsible manner with respect to all stipulations, guarantees, and duties which would have been proper under the circumstances ?†

In 1843, there was an anti-repudiation reaction.

In accordance with a requirement of the Constitution an act was passed, February 15, 1843, to give any one who had a claim against the State permission to file a bill in chancery against it, and directing issues to be made up to try the facts. An exemplified record of any finding in favor of the complainant was to be filed in the office of the Secretary of State, and thereupon the Governor was to issue his mandate to the Auditor to draw his order on the Treasurer for the amount so decreed to be paid by the State. Governor McNutt declared that this was unconstitutional, because money could be drawn from the treasury only in consequence of an appropriation made by law.

Several of the great Mississippi banks were still indebted to the United States for deposits. Execution against the Planters' Bank and the Agricultural Bank was stayed, from time to time, until March 4, 1843. During the summer of 1842, the Congressmen from the State were trying to get a longer extension. January 15, 1844, the Legislature asked the District Attorney of the United States to postpone the sale of the property of the Planters' Bank until the Legislature could take action to discharge the judgment in favor of the United States against that bank.

The State Treasury of Mississippi was in great straits in January, 1844.

* 25 Miss., 633.

† The president of the Bank of Missouri, in a trip to the East in 1852, discovered in the Bank of America bonds of Missouri fully and duly executed, to the amount of $215,000, which had lain there since 1837, neither the State nor the bank having any record of them. (7 Banker's Magazine, 334.) There was a discrepancy in the bond account of Indiana which could not be explained until a box of bonds "intended for cancellation" was found, in 1853, in the office of Winslow, Lanier & Co. It had been left there by a former State Treasurer and forgotten. (8 Banker's Magazine, 436.) The agent of the State of Indiana issued, in 1862, $1.2 millions of State bonds fraudulently. A part of these were recovered, but about $0.5 million remained outstanding. "Previous to March 11, 1859, the State bonds were left in the agent's hands, signed by the State officers, ready for issuing, and needing nothing but the agent's signature to make them valid." The law passed on that date was intended to put a stop to this loose mode of business, but no change in method had taken place in pursuance of it. Hence the opportunity remained for this fraud. (17 Bankers' Magazine, p. 79.)

The Governor said: "I am unable to state accurately the amount of the liabilities of the State, owing in part to the deranged condition of the books in the office of the State Treasurer, caused by the neglect, defalcation, and embezzlement of the late State Treasurer, and to the fact that no account has heretofore been kept at the Treasurer's office of the State bonds issued on account of the Planters' Bank, and the interest accruing thereon; such account having been kept by the Planters' Bank." The Planters' Bank had made an assignment. The Governor feared that the State's interest would be lost if the bank was liquidated in that way. He also was very sure that the Mississippians proved their high nobility by repudiating the Union Bank bonds; but as to the Planters' Bank bonds, the preservation of a high moral principle called on the State to pay them at every sacrifice, and it would do it.

February 23d, the Planters' Bank and the Mississippi Railroad were put in liquidation by act of the Legislature. All sums which should be realized, after the circulation and certificates of specie deposit should be paid, were to be applied to pay the State bonds. If the banks did not surrender voluntarily, the Attorney-general was to file a bill in chancery. Proceedings had already been begun against the Planters' Bank under the law of 1843. That institution refused to submit to the law of 1844, whereupon the proceedings under the act of 1843 were completed and were held valid by the Supreme Court in 1846.* The act for winding up these banks was amended by providing that the creditors of them should get nothing until the seminary fund, the sinking fund, and the literary fund should be restored. Debtors of the banks might redeem their securities from the assignee or holder within two years, by paying twelve and a-half per cent. per annum and costs.

We learn from the Governor's message of 1848 that the will and purpose to repudiate the Planters' Bank bonds had then become well-developed, and we learn the ground for it which was then alleged. It was that, in the charter of the old Bank of Mississippi, it had been promised that no other bank should be charted until the charter of that bank should expire.† In violation of this stipulation, the Planters' Bank had been founded. The Governor said that the Bank of Mississippi had compounded this wrong to itself in 1830. He argued against repudiation, and proposed that the income from State lands should be set aside to pay these bonds. Such a law was passed. At an informal meeting of members of the Legislature a large majority were in favor of paying the Planters' Bank bonds.‡

In a case which was decided by the Supreme Court in 1852, it was explained that the State never took any stock or issued any bonds under the original charter of the Planters' Bank. By the supplementary act of December 16, 1830, the Governor was to subscribe for stock and issue bonds for a loan; in 1833, the amount was increased. There was nothing behind these bonds but the pledge of the faith of the State. The sinking fund which was to be formed was pledged by the first charter, but not by the

* 6 Smedes and Marshall, 628. † See pages 60-1, 249. ‡ 2 Banker's Magazine, 568.

supplementary one, and it might have been appropriated to any purpose. No interest was paid after 1840. The first bonds which bore coupons fell due March 1, 1841; but $500,000 of bonds had been issued earlier, which bore no coupons, only a stipulation of interest on their face. An act was passed March 4, 1848, which appropriated the sinking fund to *coupons*.*

A payment of interest on Planters' Bank bonds was made in January, 1859, to the amount of $101,500. It appears that some holders of coupons found out that just that sum was in the sinking fund available under the law, as interpreted in this decision. They applied for it and the Attorney-general advised the Auditor that the claim should be complied with.† The only other payment of the same kind that was ever made was $20, later in the same year.‡

An act was passed March 16, 1852, that at the following presidential election, a vote should be taken, yes or no, on the question: "Will you submit to a direct tax for the payment of the Planters' Bank bonds issued by this State, on account of the Planters' Bank of the State of Mississippi?" The law provided that unless a majority of all the votes on this question, at the presidential election, should be "No," it should be an instruction to the Legislature to provide for the payment of the bonds. The affirmative vote was 12,703; the negative, 24,487; the non-voting, counted as affirmative, 7,234; making the majority against the special tax, 4,550.§

In Campell *versus* the Union Bank it was held that the supplementary charter of that bank only modified and extended the original one and that it did not essentially alter it. Under the above mentioned law of 1843, suit having been brought on a bond, the Chancellor decided that "the bond sued on was a legal and valid obligation against the State, and had not been issued in violation of the law and Constitution, and he rendered a final decree against the State for the principal and interest of the bond."‖ On appeal the Supreme Court decided, in 1853,¶ that no provision of the supplementary charter attempted directly to pledge the faith of the State in violation of the State Constitution. The State was not a debtor to the corporation for the bonds which never were delivered to it. The Legislature has power to subscribe to the capital of banks. The requirement of a repeated vote at a second session does not apply to that power; neither did the Constitution ever mean to give an appeal to the people or a right of veto in the people on acts of the Legislature for borrowing money. A double voted law has no extra sanctity. It can be repealed before rights vest under it. "The supplementary charter of the bank did not authorize the issuance of State bonds by which a debt could be imposed upon the State, and no attempt was made by that act to pledge the faith of the State for the payment of a loan or debt; nor did it attempt a renewal of the pledge contained in the original charter of the bank." The supplementary act was not void for lack of a

* 24 Mississippi, 471. (1852.) † 13 Banker's Magazine, 720. ‡ 14 Banker's Magazine, 509.
§ 7 Banker's Magazine, 499. ‖ 25 Miss., 637. ¶ Mississippi *versus* Johnson, 25 Miss., 625.

double vote; it did not change the original charter as to the guarantees against loss which were given to the State. The decision of the directors of the bank that the stock was sufficiently secured by the mortgages which were given for it is binding on the State. The sale of the bonds does not appear to have been below par; that sale was neither illegal nor void. The conversion of dollars into sterling, at four shillings and sixpence, does not avoid the sales.

Thus the Courts of Mississippi overthrew every argument which had ever been put forward in defense and support of repudiation. The allegations of fact were treated as trivial or irrelevant, and the constructions of law as unsound and sophistical.

The income from lands which had been set off in 1848, as a revenue with which to pay the interest on the Planters' Bank bonds, was expended for railroads.* The Governor urged payment. "The question for your solution is: Are those bonds due and unpaid?"

The subject of those bonds was brought before the Legislature again in 1860. A majority of the Committee to whom it was referred reported that political affairs were so threatening that it was no time to take up that matter. The minority urged payment, and replied to the majority that Mississippi, if she proposed to resume her sovereignty, needed just then most of all to establish her credit.†

A constitutional amendment was adopted in 1875: "Nor shall the State assume, redeem, secure, or pay any indebtedness or pretended indebtedness claimed to be due by the State of Mississippi to any person, association, or corporation whatsoever, claiming the same as owners, holders, or assignees, of any bond or bonds now generally known as Union Bank bonds or Planters' Bank bonds."

It is a case of the irony of history that the Mississippians were warned that repudiation would cost their State its credit and make it impossible for them to borrow. This happened, but the only case where the State afterwards tried to borrow was in the carpet-bag days, and its bad credit made it impossible for the carpet-baggers to load it up with debts, as they did the other States.

The Governor of LOUISIANA, in his message of January, 1842, had reached the point of boldly declaring that the notion was false, that the banks of one city must suspend because those of another did so. He showed that from November 2, 1839, to October 2, 1841, the New Orleans banks reduced their cash assets $300,000, and increased their liabilities $780,000, and he insisted that they would continue in this course so long as the suspension lasted.‡ It was enacted January 24th, that no bank note should be issued which was not payable in specie.

The most remarkable law to regulate banks, which was produced in this period, in any State, was the act of February 5, 1842. It is drawn in

* Governor's Message, 1859. † 14 Banker's Magazine, 861. ‡ Compare pages 377 and 380.

remarkably clear and direct language, entirely free from legal verbiage. It leaves the impression of a schoolmaster who, having got tired of confusion, insubordination, and misbehavior, takes in hand the duty of restoring order, and distributes punishments, corrections, and new orders in the most peremptory manner. All charters were revived provided the banks would prepare at once to resume, and would obey the rules here laid down. The loans on capital were to be distinguished and separated from the loans on deposits; the former were to be on mortgage and long; the latter on ninety-day commercial paper. The loans on capital were designated "dead weight;" the loans on deposits were called "movement of banks." No bank was to increase the dead weight while its whole cash liabilities were not covered by one-third specie and two-thirds ninety-day paper. If any one applied for an extension, his account was to be closed and the other banks were to be informed. Any one whose paper lay protested ten days was to be discredited, and the banks informed, and he to have no bank credit until he should pay in full. The Governor was to appoint annually a Board of Currency of three persons, each to have a salary of $4,000 per annum, to supervise banks, and to get from each a weekly statement in detail. The one on the last Saturday of each month was to be published, in order to inform the stockholders of the real situation of each bank. A full report was to be made annually to the Legislature. Each member of the Board of Currency was to file a bond for $5,000, on which he might be sued for failure to do his duty. All existing debts were to be regarded as dead weight, and payment of fifteen per cent. per annum was to be required with good security at eight per cent., and no bank credit was to be given until full payment was made. Banks might issue post-notes payable September 30, 1842, for twice the specie they possessed, but with State bonds or mortgages for the uncovered half. All such post-notes were to be stamped and recorded by the Board of Currency. All banks in liquidation were freed from the obligation to pay any bonus or to carry out improvements, except the banks in which the State was a stockholder. Banks like the Gas Light Company, which had executed works, might hold them for a set term;—for the Gas Company, forty years. All the banks in liquidation were to report to the Board of Currency, and non-liquidating banks were to take the notes of liquidating banks; this circulation to be distributed amongst the former in proportion to their circulation, which, for this purpose, is assumed to be so much, a list of the banks and their circulation being inserted in the act. The solvent banks were to be secured in taking this currency by the assets of the liquidating banks, with interest at eight per cent. The whole operation was to be regulated by the Board of Currency, and all the currency of the liquidating banks was to be canceled as it was taken in. Every bank was to state, within twenty-five days, whether it accepted this law or not; and any revived bank which did not comply with it was to be put in liquidation by the Board of Currency. A fine of $500 was to be imposed on any bank official who violated the orders of the Board of Currency. After thirty days

each bank was to issue its own notes only, and all were to make weekly settlements. The Governor might issue bonds at five per cent. for fifteen years to pay the debt of the State to the banks. The lowest note was to be for $5; no dividends might be paid during suspension; no bank might have less than fifty separate shareholders after September 30; all were declared liable to examination by the Legislature; no bank might buy its own stock or loan over thirty per cent. on that stock when it was below par; banks were forbidden to deal in sugar, cotton, or other commodities. Heavy penalties were provided for a breach of each detail in this act.

Perhaps this law grew out of one which was prepared by a bank committee in 1840,* but it seems to be, in the form in which it was enacted, the product of one mind. It obviously proceeded from very mature study of the principles and practice of banking, and may justly be regarded as one of the most ingenious and intelligent acts in the history of legislation about banking. Probably it could not have been passed except at just such a crisis in banking affairs. It remained unmodified only thirty days; then another act was passed modifying and softening it in many details. The administrative officers also flinched from the execution of it in all its severity, but, even so, it put the banking of Louisiana on a plane far above that of any other State and held it there until the civil war. The separation of the "Dead Weight" and the "Movement" betrays the same view of banking noticed above,† although the bank-note issue was here connected with the active operations and not with the passive investment.

March 11th, the banks protested against vexatious suits, and another law was passed providing for both voluntary and involuntary liquidation. The immediate effect of the law was that five of the worst banks failed at once, and proceedings were commenced against five others. March 14th, proceedings against the Union Bank were suspended, and leave was given to hold a stockholders' meeting in order to decide whether to accept the act reviving the banks, and time was given for this purpose. The purchaser of the Merchants' Bank from the Bank of the United States,‡ who was also the president of the Exchange Bank, appears to have brought it to ruin; for both of those banks failed and he absconded as a defaulter.

The New Orleans banks resumed May 18, 1842. There was a great run upon them and almost a riot. By the 2d of June all but three of them had suspended. Only one of these, the Bank of Louisiana, had any notes out. The report was: "The monetary condition of the city is deplorable beyond description." The city notes were at thirty and thirty-five per cent. discount.§ During the summer, the sacrifices of property were reported as terrible. In September "there was a bank revulsion at New Orleans, the most severe probably that was ever felt. Its effects extended throughout the Union." Sterling exchange was at twelve and thirteen discount.‖ Probably this great

* Treasury Report, March 3, 1841, p. 644.
† See page 312.
‡ See page 361.
§ 62 Niles, 256, 320.
‖ Treasury Report, August 10, 1846, p. 833.

revulsion in September was due to the provision, in the law for reviving the banks, that the post-notes must be retired at that time. The remark was quoted of some participant in these vicissitudes: "We then touched bottom and we staid at the bottom until May, 1843."

An act to liquidate the property banks, April 5, 1843, provided that any stockholder might clear his liability by paying in the bonds of the State issued to the bank. The assets of the Consolidated Association and the Citizens' Bank were to be held by the State until they should pay the State bonds issued to them. Future crops of the stockholders might be mortgaged to the banks, property might be surrendered to them on appraisal, and the banks might buy in mortgaged property. The Governor was to appoint managers for each. The Board of Currency reported, in 1845, that the Union Bank had punctually paid its semi-annual interest coupons, and the first of the series of bonds due in November, 1844, amounting to $1,750,000, and that ten banks were in liquidation, including the Citizens' and the Consolidated Association.

The Union Bank escaped the fate of all the other banks of the same class. Either it was more bank than loan office or its loans were predominantly on city real estate. It continued as one of the leading banks of New Orleans. The Consolidated Association was liquidated and wound up. In 1849, having paid up a part of the State bonds issued for it, it extended the rest, amounting to $1,376,000, giving bonds of the bank payable at different dates down to 1866. The cashier says: "We are now happy to say that the honor of the State has been relieved so far as this bank is concerned."

The Citizens' Bank remained in liquidation ten years. It was then resuscitated and will be heard of again below.

Of the bonds issued for banks, there were outstanding, in 1843, half of the $2.4 millions issued in 1824 for the Bank of Louisiana; $2 millions for the Consolidated Association; $7 millions for the Union Bank; $7.1 millions for the Citizens' Bank.*

In the message of the Governor, 1843, it was stated that the expenditures of the State exceeded the revenue by more than $200,000; "that there is nothing in our exhausted treasury; that the State can no longer borrow a dollar from her own banks; and that the people are taxed as heavily as they can bear."

The Secretary of State and the State Treasurer were constituted the Board of Currency, April 6, 1843; to have only $1,200 salary each. Various measures were taken, March 10, 1845, to assist in the liquidation, and it was provided that receivers should take charge of all the assets of the two great property banks, in order to provide for the payment of the State bonds issued to them.

In 1846, the Governor was able to say that the State and city were "blessed with a sound constitutional currency, amply adequate to all

* Johnson's Report on Assumption.

domestic or commercial purposes." He had cancelled $3.5 millions bonds which had been liquidated under the act of March 25, 1844, and the Bank of Louisiana and Mechanics and Traders' Bank had retired part of the bonds issued on their account, and were expected to retire more.

December 20, 1848, it was enacted that the stockholders of the Consolidated Association must pay their dues to it in specie, or by the delivery of State bonds, and that company was allowed to test in the court the liability of the State as a stockholder to share in the losses. In the case which was made up under this provision,* it was held that the State was not liable for the losses of the bank, by virtue of the shares which it possessed, because they were given as a bonus and would not be such if they carried a liability. The counsel for the bank in arguing this case (1850) said that Louisiana had, within a few years, made $1 million from her banks. Shall she evade a loss of one-sixth of that amount in "the only institution which has been unfortunate?"

There is no more eloquent commentary on the banking history of these States than the provisions about banking which they put in their Constitutions at the next subsequent revision. The Constitution of 1845 forbade the Legislature to pledge the credit of the State to anybody, and prohibited the creation of corporations with banking or discounting privileges.

ARKANSAS.—The Legislature ordered, December 22, 1840, that the banks should resume with those of Louisiana, Tennessee, and Alabama, "and shall not again suspend on any consideration whatever." At the same time they passed an appraisement law requiring two-thirds of the valuation or a stay of a year. In July, 1841, twenty men in Phillips County kidnapped the Judge before whom many executions were returnable so that he might not do his duty. The Real Estate Bank at Helena and the branch of the State bank at the Post having brought a great number of suits in that Court, the Judge was petitioned not to hold court. He insisted on doing his duty. Armed men took possession of the Court House and threatened to kill the Sheriff if he forced his way in. He desisted and the Judge was kidnapped.†

A Committee which was appointed in 1841 to examine the Bank of the State reported that they found at the Post of Arkansas a banking house which was one of the finest buildings in the State, but that the debts could not be collected, and that the banks could do no business for five years to come, except trying to recover the capital. They reported that at Fayetteville the books had disappeared, "alleged to have been stolen from the bank a few days before our examination commenced." The books had been found and were still legible, except that the cash book had been mutilated by cutting out all the pages which contained entries. The cashier, when interrogated, declared that he had made a false return of the specie, lest the fact should appear that the bank was in straitened circumstances. He was himself a defaulter.

* 5 Louisiana, 44.

† Gouge; Journal of Banking, 26.

The Central Board of the Real Estate Bank passed resolutions, April 1, 1842, to assign and liquidate, appointing trustees.* A majority of the directors at Little Rock seized and held the papers and property, refusing to deliver them to the trustees. After some litigation, the Supreme Court maintained the assignment. The assignees were a majority of the Central Board. At first view it seems that the effect of this assignment was to save the wreck of the bank from being sacrificed by politics and jobbery, but the result was that the affairs of the bank were enclosed in secrecy and mystery. The assets at the time of the assignment were put at $2,404,966 and the liabilities, at $2,230,986.

Commenting on this assignment, the Governor said, in 1844: "The history of the bank already presents the most extraordinary picture ever exhibited to a free people. In the first place a public corporation is created by the solemn act of the legislative department of the government, involving the rights and privileges of individuals as well as the State. In the next place the act of incorporation giving existence to the bank is destroyed by an *ex-parte* operation of a few individuals, by which a deed of assignment was made to a few men, denominated residuary trustees, whereby the assets of the bank, of every description, were transferred into the hands of said residuary trustees and their officers. From that period the operation and management of the bank has been involved in profound mystery."

The Legislature passed an act for liquidating the bank, January 31, 1843, but it never superseded the assignment. On the same day they put the Bank of the State in liquidation, ordering that the gold and silver which it possessed should be paid out *pro rata* to the whole circulation, the amount paid on each note being stamped on it in red ink. The par funds, after paying the circulation, were to go to the interest on the State bonds. The arrangement about paying on the notes was repealed February 3d, and it was enacted that other notes should be given for the difference, which should be stamped "re-issued." The notes at this time were at thirty-three cents on $1.

The State sued out a *quo warranto*, in order to take into its hands the franchises of the Real Estate Bank.† It was held that the assignment was a forfeiture, and that the "corporate existence of the Real Estate Bank ceased."

The Legislature ordered, February 1, 1843, that out of any specie in the Bank of the State, $15,000 should be set over to the State as a reimbursement of the federal surplus revenue, and that this sum should be used to pay the members of the Legislature.

The Governor believed, in 1844, that under the management of active and judicious receivers, at least one-half of the debts to the Bank of the State might be collected at some of the branches, and at others even more. He commented on the banking system as follows: "The pursuits of our

* 4 Pike, 304. (1842.)

† 5 Pike, 595. (1843.)

people and the condition of our country, just emerging from the wilderness, did not then and do not now justify the use of banking facilities, if at all, to the extent provided, and of which we availed ourselves, as it seemed, in a spirit of emulation of the extravagance of other States, rather than in accordance with our real wants and substantial means. * * * Few, I apprehend, have ever been able to realize any profits from their so-called accommodation, while almost every one has a loss to regret."

At the session of 1844-5, the Legislature ordered that the receiver of the State Bank should pay to the State treasury all the par funds which he then had, or should afterwards receive; and that they should be used first in the payment of the Legislature. All liabilities of the State contracted before October 1st, were to be paid in the old bank notes, which were then at fifty cents on the $1; but they were no longer to be received for taxes, and State obligations incurred after the date mentioned were to be paid with treasury warrants, bearing no interest but receivable by the treasury and the State Bank. It was also enacted that all the funds of the State which had been placed in the bank should be regarded, not as a part of its capital, but as a deposit by the State. "The truth is, the State mainly lived on the means of the bank from its commencement and as long as it had a dollar."*

At the session of 1848-9, the Committee on Banks reported that the State Bank had lost a large part of its assets for lack of means to defend its interests, and that this was owing chiefly to the action of the Legislature in 1842 and 1844, in taking out its par funds with which to pay themselves. In a great number of suits, the bank was non-suited because it could not give security for the costs.

The act of January 10, 1845, enacted that after March 4th nothing but par funds should be received by the State for dues to itself. There were still, in the following year, $133,862 of notes of the Bank of the State outstanding. This law led to long litigation. It was sustained in the State Court, but not in the Supreme Court of the United States.† A question also arose on the validity of the repeal of the charter, and on the power of the State to take possession of the assets. The State Court sustained the power of the State to dispose of the franchises and assets of the bank to the fullest extent, so that, taken in connection with Briscoe's case, if the doctrine had been established, it would have enabled the State to act with completely arbitrary power in the creation of paper money banks, without responsibility.‡ The Court said, in fact, that the creditor, in such a case, was left "in a condition in which his rights live but in grace, and his remedies in entreaty only." Before the case came to the Supreme Court of the United States, the Legislature had further taken specie and par funds from the bank and replaced them by credits subject to appropriation; had vested in the State the title to land taken by the bank for debt; and had required the bank to accept in payment bonds of the State issued to other corporations. The

* Committee on Banks, 1846. † 10 Howard, 190, 218. (1850.) ‡ 12 Arkansas, 321. (1851.)

Supreme Court of the United States held that these laws withdrew the assets of the bank from the note-holders, who were entitled to payment by contract. If the charter had been repealed, which it had not, this would make no difference. The State had no right to withdraw the assets. If the construction of the State Court was good, "the bank had no proper capital which was bound by its contracts, and this would render it extremely difficult to maintain the validity of the charter" since its notes would be bills of credit.*

The law of the matter was then summed up to that date as follows: "The cases of Briscoe *vs.* the Bank of Kentucky and Darrington *vs.* the Bank of Alabama have settled the question [of the power of the States to make corporations to issue notes] in reference to such banks as were involved in those cases; but the principal ground on which such bills were distinguished from bills of credit emitted by the State was that they do not rest on the credit of the State, but on the credit of the corporation derived from its capital stock."

When, in 1846, the trustees of the Real Estate Bank were asked why the collections were so tardy, their secretary replied that the loans were first used to pay old debts; that credit was so easy that many were seduced into borrowing imprudently; that many mortgaged their land at such a high valuation that they would now rather surrender it than pay; that some were waiting for a further depreciation of the State securities, forgetting accumulating interest; that many hoped in some way to escape payment. The Governor at that time was alarmed at the repudiation sentiment and at the irritation produced by the collections for the State Bank.

In 1846, an amendment was adopted to the State Constitution: "No bank or banking institution shall be hereafter incorporated or established in this State." When this amendment was put to vote in the Legislature there was not a vote against it.

The State Auditor, in his report of 1848, called attention to the fact that $154,000 of the bonds of the State had been sent to Washington eight or nine years before, to be sold to the Secretary of War, who refused to receive them. They were still lying in a Washington bank.

J. M. Curran instituted ninety-four suits against the bank, in 1849, for State Bank notes to the total amount of $9,355, and recovered that amount, with $5,314 damages. He won at every step up to the Supreme Court of the United States. With accumulated interest the amount became $20,883. Assets of the bank, which stood on the books at $109,720, were sold under judgment to satisfy this debt.

It appears that the banking houses which were built by the Bank of the State of Arkansas were extravagant and also were such buildings as could not be converted to other uses. The one at Little Rock which cost about $28,000, in 1840, was sold in 1845 for about $200. The others sold at very much the same loss. The one at the Post cost $16,000. It was bought

* 15 Howard, 304. (1853.)

in by the State for $100, but was so situated that it could not be put to use.

As soon as the Bank of the State went into liquidation, it appears that it only fell into the hands of a new set of plunderers. No investigators ever were able to find out how the exchange of bank notes for State bonds was carried out. One receiver, as a committee said, "traded with himself" for bonds in exchange for notes, and no record of the transaction was kept. The receivers also retained bonds which they had bought, and took for themselves the interest, instead of returning the bonds to the treasury for cancellation, as the law required. Indeed they paid little heed to the prescriptions of the statute as to their duties. A committee of 1850 said that "in many cases the great bulk of the loss is attributable to the criminal negligence and dishonesty of the officers of the bank." They allowed the loans to be lost under the statute of limitations. They neglected to attend to the security of the debts, and allowed their friends who were men of wealth to escape, by taking men of no responsibility in their stead, and neglected to enforce collections. "The history of the bank exhibits the most astounding instance of long-continued mismanagement and open abuse of trust that ever occurred in a country of laws." The causes were chiefly indifference as to qualifications in selecting officers, and lack of accountability. "In the possession of vast amounts, freed from all restraints, every obligation seems to have been released and every law regulating their duty set at defiance."

At the session of 1852-3, a proposition was made to enact a free banking law on the New York model. It was at last submitted to a popular vote, when the people refused to call a convention for the necessary amendment to the Constitution.

The Legislature, January 12, 1853, adopted resolutions that the Attorney-General should file a bill in chancery for an accounting by the trustees of the Real Estate Bank, reciting in the preamble: "It is known that the trustees have, in many respects, violated the provisions of said deed, and there is great reason to believe that great losses have been sustained by their neglect and improper conduct." In the following year, however, the Governor declared that the mystery which surrounded the liquidation of the bank had not been broken. It refused to answer questions, although in answer to a demand from him, it made a return of the bonds which it had received in the course of its operations, and which it held. The Bank of the State had, up to that time, redeemed and canceled two hundred and thirty bonds. No interest had been paid on the outstanding bonds, but the United States had retained land payments which were due to Arkansas towards the interest on the $500,000 in the endowment of the Smithsonian. The amount of this, to 1853, was $46,834.

At the next session, the Legislature made another attempt to bring to light the true condition of affairs in the Real Estate Bank. The Governor was to institute suits and employ counsel. The liability of the State for

compound interest on the bonds was affirmed in the Circuit Court of the State, in 1854.* Thereupon, while the suits begun by the Governor were pending, others were begun by creditors. It was feared that they would succeed in getting judgments and would sacrifice the assets. The plaintiffs had filed only copies of the bonds on which they sued. In order to defeat them a law was passed, December 7, 1854, that the original bonds must be produced and filed in the office of the clerk, and could not be withdrawn except upon an order of the Court. If the originals were not filed, the suit must be dismissed. This course was taken in five suits, and upon appeal to the Supreme Court of the United States, the law was sustained.† The doctrine was affirmed that those who deal with a State must rely on its good faith.

In 1856, Arkansas for the first time had a balance in the treasury in gold and silver. It amounted to nearly $150,000, and all the warrants had been retired. Up to that time 607 State bonds had been retired by the liquidation operations of the Bank of the State.

In 1857 the bonds which had lain in Washington had been recovered and were ordered to be burned. All suits relative to the Real Estate Bank were put under the jurisdiction of the Pulaski County Chancery Court. An act was also passed against trespassers and squatters on the lands of the bank.

W. M. Gouge and A. H. Rutherford were appointed accountants under an act of January 15, 1857, to investigate the Bank of the State of Arkansas. Several previous attempts had been made to investigate its accounts, but the investigators had all given it up on account of the confusion of the books and the magnitude of the labor. These two made a report, October 10, 1858, after having done their best to reconstruct the accounts and discover the facts. The fact which stands out most distinctly in this report is that all parties, at the time the banks were founded, regarded the money which was brought into the State by them as a pure bounty. The people never gave themselves a clear account of what they were doing, or what they expected, but they thought of banks as fountains of wealth, and did not really feel that any one would ever have to fulfill any onerous engagements to one of them.

A Committee of the Legislature of that year refused to give weight to an appeal on behalf of the stockholders of the Real Estate Bank. That bank, they said, "was a speculation from its very beginning. If it had been successful the profits would have been theirs; if it has been unsuccessful, others ought not to bear the loss."

Up to October 1, 1860, there had been paid on the debt of the State, $2,341,996. There was still outstanding a little more than a million for the State Bank and $1.6 millions for the Real Estate Bank. There was also a debt of $267,455 for principal and interest of the negotiation with the North

* 9 Banker's Magazine, 488.

† 20 Howard, 527, 530.

American Trust Company, *i. e.*, for the amount received on the Holford bonds.*

January 16, 1861, an act was passed to enable the State to foreclose lands mortgaged to the Real Estate Bank; all the stock mortgages were to be assessed to make up the deficiency of assets, to pay the principal of the bonds which fell due in that year.

We meet, once more, with an act, March 8, 1867, to appoint an agent to settle the accounts of the Bank of the State. An act of April 6, 1869, provided that all assets of the State Bank and the Real Estate Bank should be held as a sinking fund for the bonds which were then issued to refund the old bonds which had been issued for the banks. A further act of February 5, 1879, provided that the bonds issued to refund the Holford bonds should not be received for debts to the Real Estate Bank. A resolution was also passed, without the Governor's signature, proposing a constitutional amendment that the Legislature should never have power to lay a tax or make an appropriation to pay the Holford bonds. In 1881, the Auditor and Treasurer were instructed that they were not required to report railroad aid and levee bonds and Holford bonds in the indebtedness of the State. A large section of the revised statutes of 1884 deals with foreclosures of lands mortgaged to the Real Estate Bank, and with a land office system to dispose of them again in the interest of the State.

TENNESSEE.—The Bank of the State was authorized, January 25, 1842, to issue notes between $1 and $5, so long as the suspension should last.

At the session of 1841-2, apparently in spite of a veto, since no date is given, the Bank of the State was ordered to pay $200,000 to East and West Tennessee, half to each, for improvements, and $200,000 in bonds then printed and lying in the bank for that purpose were to be burned.

All the papers and books of the Circuit Court of McMinn County, Tennessee, were burned in May, 1842, apparently upon a burglarious entry.†

An extra session of the Legislature was called in October. In the Governor's message it was stated that the Southwestern Railroad was likely to be abandoned. He wanted an investigation of the Bank of the State on general principles, and was anxious by means of its profits to avoid the "oppression of direct taxation." There was great pecuniary embarrassment, he said, throughout the State, and relief was needed. He charged everything to the federal government and the overthrow of the United States Bank. Money was scarce; the currency of the State had been reduced, since 1836-7, from $5 millions to $1.2 millions. At the extra session a number of measures were adopted for relief. October 29th, all banks were allowed to issue notes down to $1 until January 1, 1845. The redemption law of 1820 was changed so that any one who bought land of one who bought it in execution should hold it subject to redemption for two years, with six per cent. interest, as the first buyer did. The Bank of Ten-

* Governor's Message, 1861.

† Gouge: Journal of Banking, 374.

nessee was allowed to discount notes for sums under $50, and to continue reductions on other notes till they were brought down to $50. Loans to bank directors were restricted and security was to be taken for those which they already had. In July, the Attorney-general had sued out a *scire facias* against the Union Bank and the Planters' Bank for not paying specie; but these suits were now discontinued because these banks had resumed August 1st.

The Bank of the State and the internal improvement Commissioners of East and West Tennessee could not agree on the construction of the law which required that the bank should pay $100,000 to each section for improvements. The act of November 12, 1842, distributed the money which the bank was called upon to pay.

The Bank of East Tennessee was chartered December 27, 1843, at Knoxville; $800,000 capital; on the model of the Union Bank.

The president of the Bank of Tennessee, in his report of 1843, anticipated a deficit in the following year, because the interest on the internal improvement bonds had been steadily increasing every year, and more bonds were to be issued, so that the profits of the institution could not equal what it would be called upon to pay. He complained also of the burden laid upon the bank to pay the above $200,000 for river improvement, which, he says, will have to come out of the capital. He proposed that expenses should be reduced by discontinuing some of the branches, and that the bank should be relieved from the arbitrary charge placed upon it for the school fund. Of the internal improvement companies in which the State held stock, only one had paid any dividend, the amount being $3,696. The Commissioners appointed to examine one of the branches declared that they could not understand how, if private individuals whose interests were identified with the bank they managed could only make five per cent., it could be expected that a bank owned entirely by the State, and managed by men, however skillful and honest, "whose private interests are in direct opposition to that of the institution which they have been appointed to direct and govern," can make as much for the State. They proposed to wind up the bank and invest all that could be saved in bonds of the State, which were at an important discount. They gave as another reason for this course that it could not "have escaped the observation of the most casual observer that if this institution is continued, under whatever system of re-organization might be adopted, it would be a bone of contention between two rival political parties, the ins and outs, each of which will be contending for the spoils, like vultures for the carcass, so long as any portion of the capital remains."

The president of the bank, in 1845, declared that it had afforded the relief which it was founded to give and ought to be wound up.

KENTUCKY.—A convention of a large number of banks of Kentucky, Indiana, Illinois, and Ohio was held at Louisville, January 25, 1841, to consider resumption. It adjourned without action and without day, but

recommended that another convention for the same purpose be held some time.

The capital of the Kentucky banks was very largely held in the East The president of the Bank of Kentucky stated in 1840 that 25,130 shares of the bank were on the books at New York and Philadelphia, and 4,780 at Louisville. On account of the large amount of shares of the Louisville Bank of Kentucky, which were held in the East, transfer agencies were opened in New York and Philadelphia,—in the latter city at the Schuylkill Bank. The cashier of that bank issued spurious certificates to the amount of 13,000 shares, 447 of which, however, were surrendered by the holder, being held as collateral only. This fraud was discovered in December, 1839. February 22, 1842, the Legislature of Kentucky passed an act under which the Bank of Kentucky set aside all its surplus profits over five per cent., and all which it could recover from the Schuylkill Bank, as a "stock fund" out of which to meet the expenses and losses of the over-issue. The capital was increased $1 million and the spurious stock in the hands of innocent holders was recognized. Satisfactory proof must be given that the holder was an innocent purchaser. An act of March 3d limited the amount which the bank might pay for the spurious stock to $40 per share. In 1849, it reported that it had bought up the fraudulent stock, and had obtained from the Schuylkill Bank perhaps $600,000 worth of assets, under a judgment of the Pennsylvania courts.*

In these days of liquidation, relief laws were once more called for. They now took the form of an extension of exemption laws.

As a further relief measure, March 8, 1843, the bank at Louisville was ordered to set up two branches, within three months, with not less than $100,000 capital in each; but either branch might be withdrawn or removed if it did not earn six per cent. If the bank complies with this order, the term of its charter is to be extended ten years. It may purchase and retire $150,000 of its stock. The banks are all forgiven for suspension if they comply with this act. The bank at Louisville is to loan $100,000 in each congressional district in which it has a branch. Loans are to be called in not more rapidly than ten per cent. in each of the first two periods of 120 days, and not over twenty per cent. in each subsequent period of 120 days, making 720 days for the payment of an entire debt. Not over $1,000 was to be loaned to one person. The Bank of Kentucky and the Bank of Northern Kentucky were to make similar loans in other districts; if the former consents to this, it may surrender $1 million of five per cent. bonds of the State, and reduce its capital $1 million; the Bank of Northern Kentucky in like manner $750,000, and they may issue notes down to $1; the Governor may sell five per cent. bonds to the amount of $1,750,000, and invest the proceeds in stock of the three banks, if he can get that of the Bank of Kentucky at eighty and that of the other two at ninety; this stock to be put in the sinking fund and the

* 1 Parson's Equity, 181.

dividends to go to it. The loans were to be apportioned in the counties according to the number of voters.

The Committee on Banks, in their report of December, 1843, said: "There never was, perhaps, a set of banks that have done so much business and sustained fewer losses than the Kentucky banks within the last two years." In the following year the same committee said: "Your Committee do not believe that there has existed, at any former period in the history of the State, a system of banking under its authority more eminently successful in establishing a currency free from fluctuation, and in affording the surest guarantees to the holders of its circulation than the present; or which more fully possess the public confidence."

A committee was appointed, January 20, 1844, to inquire of the banks what loans they have made under the act of March 8, 1843; whether they mean to call twenty per cent. of the loans, as the law allows; on what terms they will grant renewal and delay; whether they cannot increase their circulation.

The right to issue notes under $5 was extended to the banks for the duration of their charters, January 21, 1846.

In 1850, the charter of the Southern Bank of Kentucky was extended to 1880, provided that no interest should be paid to the bank on the State scrip issued to it, so long as it held the same; and that it should pay the interest on the scrip if it should sell it.

OHIO.—In January, 1842, the irritation against banks, on account of troubles with the circulation, led to a riot in Cincinnati, in which two or three banks had their books, papers, and furniture destroyed. There were runs on these banks, not for specie, but for some paper better than their own. The militia were called out and some persons were wounded, but the militia acted very unwillingly.* The next day there was a similar riot in Louisville.

January 21, 1842, the Legislature passed resolutions exhorting the neighboring States to resume specie payments, and pledging Ohio to do the same. In the first months of 1842, a number of bank charters were repealed or annulled. February 18th, an act was passed that banks not redeeming their notes shall be held to have forfeited their charters; they are prohibited from assigning. The Bank Commissioners are to apply for injunction, or the note-holders may do so, the facts to be found by a jury. Debts are divided into two classes,—those which, according to the contract, are to be paid in depreciated notes, and those not so payable by the contract. In the first case, the bank notes are allowed as a set-off, the jury to decide the facts. In the second case, no bank notes are allowed as a set-off, but payment must be in gold or silver. Notes redeemed by the receivers are to be burned. In case of an appeal by the bank of a suit against it, if the plaintiff gets as much on appeal as before, the bank is to pay twenty-five per cent.

* Gouge; Journal of Banking, 232.

damages, over and above all interest and costs. There is to be no stay of execution on a judgment against a bank. At a meeting of the banks by delegates at Columbus, they resolved to act together to sustain each other. Part of the plan was to establish a Suffolk system of central redemption. March 5th, the notes of a bank were made payable to it in all suits by the bank or its assignees.

March 7th, another act to regulate banking was passed. The association was first to be formed and then to apply for a charter. All were to have the same general powers of organization; all capital to be paid in in specie before beginning; Bank Commissioners to inspect the bank and certify that this has been done; no loan to be made to a director for more than half his shares; in a $100,000 bank no one person to owe it more than $8,000, and so on according to a scale; no loan to be made to an officer; debts, exclusive of deposits, not to exceed one and a-half times the capital; the circulation never to exceed the capital, and one-third of it to be held in specie; a State officer to register and countersign the notes, and to guard the limit for each bank as returned to him by the Commissioners; tax to be one-half of one per cent. on the paid up capital, but the Legislature may change it; banks organized under this act to take each others' notes, exchanging notes as the Commissioners direct, and paying balances; no note to be issued between $5 and $10 or between the other decimal denominations.

On the same day, another act was passed that no State officer, after March 4th of the next year, should pay out any note not redeemable in specie on demand; penalty, to be liable in an action for debt for the difference in value between the note and specie, and to lose his office. Exception was made of notes taken before that date on account of the State.*

On the same day, still another act was passed, which shows that the unauthorized companies were still issuing notes. If any incorporated company, not having banking powers, becomes insolvent, or refuses to pay the evidences of debt which it has put in circulation, or suspends business for a year, or violates its act of incorporation, or puts out circulating notes, it shall be held to have forfeited its charter, and shall be adjudged to be dissolved; the courts to have visitorial powers; all acts of incorporation hereafter to be subject to amendment and repeal; private corporations are subject to individual liability.

The Bank Commissioners in this year laid special emphasis on the abuse that, upon the failure of a bank, its directors and stockholders, who had large loans from it, surrendered their stock in cancellation of the loans, although the stock might have no market value. They thus escaped liability.

There was at this time an appraisement law that the sheriff should, at the demand of the debtor, summon three householders to appraise property

* The text says "March 4th next;" the act was signed March 7th.

taken in execution, and that it should not be sold unless two-thirds of the valuation was bid.

The act for the regulation of banks was amended February 21, 1843. No one was allowed to be a director in two banks; not more than one member of a firm might be a director in the same bank; no loan might be made for more than six months; no dividend might be made when the capital was impaired; the stockholders were to be individually liable, except where the depositors and the bank might otherwise agree as to deposits; it was unlawful for the president or cashier to deal in stocks. In this act five new banks were organized under the law, and five others submitted to it. This act was considered too stringent, and banking associations refused to organize under it, hoping and expecting relaxation. February 15, 1844, three banks which complained of the restrictions of this law and asked extensions of their old charters obtained what they asked for, on condition of consenting to individual liability and keeping one-third of their circulation in specie. Immediately afterwards three others took the same step.

Of the twenty-three banks in Ohio, with a capital of $7 millions, the charters of thirteen expired by limitation January 1, 1843, and of two more, a year later. The remaining eight had a capital of $3.4 millions, of which about half was owned in the State. In December, 1843, the Commissioners said: "There probably never was a time when the banks of the State were in a better condition than the present."

Speaking of the ending of these thirteen banks, the Governor said, a year later: "Instead of the ruin and disaster predicted from the event, business and enterprise have continued to revive unimpeded in their progress; thus, as the banking system has literally rotted down in the sink of its own folly and corruptions, the prosperity of the country has received new life. Industry and enterprise, relieved from the bondage of banking operations, are recovering their energies with renewed vigor."

The Senate, in 1844, called upon the Bank Commissioners for an estimate of the loss of the people of that State by banks since 1831. The answer had no value on any point but one,—the loss by the circulation, which was put at $1.4 millions.*

The Bank Commissioners, in 1844, gave a list of forty-seven banks in that State which had failed. The Governor in that year expressed himself strongly opposed to the New York free banking system. One of the most famous of the unauthorized note-issuing companies, the Granville Alexandrian Society, came to the surface once more March 8, 1845, when an act was passed to settle doubts whether the note-holders could enforce payment against it, since it never had a right to issue, and whether it could collect debts due to it for its banking business; both were provided for, in order to

* The Governor quoted, without stating his authority, statistics of the losses to the whole country by the revulsion, 1837 to 1843, as follows: bank circulation and deposits, $54 millions; bank capital, $248 millions; company stock, $80 millions; depreciation of State stock, $100 millions; real estate, $300 millions.

liquidate all its affairs. Two more acts are found forbidding unauthorized note issues, the first, March 12, 1845; the second, March 2, 1846, extended the time after which the State Treasurer should not receive or pay out such notes.

In 1845 the nomenclature of the Ohio currency was given as "yellow dog," "red cat," "smooth monkey," "blue pup," and "sick Indian."*

MICHIGAN.—The Governor made a contract, June 1, 1838, with the Morris Canal and Banking Company,† by which they became the agents of the State, to sell the $5 millions loan. They sold and accounted for $1,187,000. July 1, 1841, the interest was not paid on these bonds. In February, 1843, an arrangement was made to fund the interest until 1845. As the bank could not sell any more and was urged by the Governor, it proposed that he should deliver all the bonds at once on a sale to the mentioned bank and the Bank of the United States, to be paid for in installments, one-fourth by the former and three-fourths by the latter. He agreed. One million was paid before both banks became bankrupt. In the meantime the bonds had been hypothecated in Europe by the Bank of the United States as security for its borrowings there. Michigan refused to pay more than she had received.

The Bank Commissioners in their report, January 18, 1839, said: "Standing, as Michigan does, upon the ruins of her credit and currency, it behooves her to carefully examine the causes which have precipitated to almost entire destruction the edifice so lately erected, and, by the light of other examples and her own experience, to rear upon a safer and surer foundation that which her present condition calls upon her to establish."

"On the 15th day of March, 1837, the act popularly entitled the 'general banking law' was passed, upon the plausible principle of introducing a free competition into what was considered a profitable branch of business heretofore monopolized by a few favored corporations. In a little more than a year forty-nine banks were organized, with a nominal capital of $3,915,000, and about forty went into actual operation under its provisions. These institutions professed to have an actual and available capital of $1,745,000; thirty per cent. of the nominal capital being presumed to have been paid in according to law, in gold and silver. They were authorized to issue and to put into circulation bank bills to the sum of $4,362,500, being twice and a-half the amount of capital paid in and possessed. The feature of the act which authorized banking under the suspension law (that is to say, giving the sanction of law to the issue of promises to pay, not liable to redemption in gold and silver on demand) gave an irresistible impulse to their career, by opening the door for the debtor to liquidate his liabilities by transferring to

* 68 Niles, 272.

† This company was founded in 1836. E. R. Biddle was president. He had no capital, but undertook iron smelting with anthracite coal, having borrowed from the Canal and Banking Company $180,000 on bonds payable in iron. These bonds were transferred to the State of Michigan with other securities to guarantee the unpaid part of the bonds of that State; which contract ha l been assumed by the United States Bank. (Gouge: Journal of Banking, 137.)

the public at large his indebtedness to individuals. The result is well known; and it is believed that it is not too strong language to assert that there are no species of fraud and evasion of law, which the ingenuity of dishonest corporations has ever devised, which have not been practiced under this act."

"The loan of specie from established corporations became an ordinary traffic, and the same money set in motion a number of institutions. Specie certificates, verified by oath, were everywhere exhibited, although these very certificates had been canceled at the moment of their creation, by a draft for a similar amount; and yet such subterfuges were pertinaciously insisted upon as fair business transactions, sanctioned by custom and precedent. Stock notes were given for subscriptions to stock, and counted as specie; and thus not a cent of real capital actually existed, beyond the small sums paid in by the upright and unsuspecting farmer and mechanic, whose little savings and honest name were necessary to give confidence and credit. The notes of institutions thus constituted were spread abroad upon the community in every manner, and through every possible channel. Property, produce, stock, farming utensils, everything which the people of the country were tempted by advanced prices to dispose of, were purchased and paid for in paper, which was known by the utterers to be absolutely valueless. Large amounts of notes were hypothecated for small advances, or loans of specie, to save appearances. Quantities of paper were drawn out by exchange checks—that is to say, checked out of the banks by individuals who had not a cent in bank—with no security beyond the verbal understanding that notes of other banks should be returned at some future time."

"The result of the experiment of free banking in Michigan is that, at a low estimate, near a million of dollars of the notes of insolvent banks are due and unavailable in the hands of individuals."

The Commissioners recommend a repeal of the general banking law and desire "the recommendation by the Executive of a State institution, under the control of the State itself," subject to rigid scrutiny.

The banks all suspended October 28, 1839. At the following session of the Legislature, a Committee of Investigation was appointed on the Bank of the State. The Committee tried to ascertain the amount of indebtedness on the part of the directors of the bank, but the information was refused; also information on the item of their exhibit, "Due from banks." "Shuffling, evasion, and concealment are not the companions of honesty." Their available assets are insufficient "to meet their indebtedness to the State alone, without reference to their other liabilities." The Commissioners "believe the facts above stated to be sufficient to warrant them in coming to the conclusion that the funds of the State cannot be safe while intrusted to that institution."

In July, 1841, the Detroit "Daily Advertiser" maintained that not one of the banks of that State had complied with the conditions necessary to entitle

it to the benefits of the suspension acts of the previous winter.* The same newspaper said that the Bank of Michigan owed the United States, in 1839, $80,000; it wanted suspension; it got it; raised the circulation from $150,000 to $200,000; bought flour and pork; sold them for enough to pay the debt, and then failed, leaving the circulation in the hands of the people.† At the end of 1841, the people in the country districts of Michigan adopted the "Macon specific,"‡ whereupon specie reappeared.

In January, 1842, the law authorizing suspension was repealed, which forced the Bank of the State of Michigan into liquidation.

INDIANA.—A stay and replevin law was adopted February 24, 1840, the delay being four months.

This State became involved in financial dealings with the Morris Canal and Banking Company. By joint resolution of February 24, 1840, the Legislature expressed their dissatisfaction with the security which had been taken by the president of the Bank of the State for $1 million State bonds, which had been delivered to that company. The Fund Commissioners were directed to require additional collateral. The amount of the stock of the State in the Bank of the State, as we learn from an act of February 6, 1841, was $1,304,950. The amount which it had advanced to pay the installments for private stockholders was $224,000. It was ordered that this should be set apart to redeem the bonds issued for the bank. The sinking fund was, at the time, loaned out on mortgages. It was to be recalled and invested in bank stock. The sinking fund was also to pay to the treasury all surplus over its interest and charges. These two grants from the sinking fund were to be loans to the State at six per cent. The Bank of the State might issue for five years not over $1 million in small notes, not less than $1.

An appraisement law was passed February 13, 1841. Rents and profits for seven years must first be offered for sale. The limit of valuation was one-half. February 15th, the college and other funds which had been loaned out were ordered to be recalled and invested in bank stock.

The Bank of the State of Indiana made losses until 1841, $58,000. In December, 1842, the bad and doubtful debts were nearly $200,000, but there was a surplus fund far exceeding this. The bank resumed specie payments June 15, 1842. Within a few months, at that period, the currency of Ohio, Kentucky and Illinois was reduced from $15 millions to $5 millions, and that of this bank from $2.7 millions to $1.7 millions. No convulsion at all was produced. The State had issued treasury notes of which this bank and its branches held $634,710 which they could not circulate. Two of the branches were very much crippled by them; two others were in similar difficulty from large loans to stockholders. The president did not take ground against the stay law, but said that it must be restricted so as not to apply to future contracts, if business was to recommence. He mentioned that within a short time specie had been transported in large amounts from Indiana to New Orleans.

* Gouge; Journal of Banking, 26. † 61 Niles, 108. ‡ See page 368.

In 1843, the report of the bank was very encouraging. Its capital had been diminished $600,000, which had not weakened it. The debt of the State to it and the suspended debt had been greatly reduced, and the treasury notes raised nearly to par. The stockholders owed less than ever before and the specie had increased. Further remarkable illustrations of the discipline exerted by the Central Board over this bank were presented at this time. The facts show that such discipline was called for, and the comparative success of this bank must be attributed in large measure to the vigor and firmness with which the Central Board exerted their authority. One branch which had been badly managed, and had persisted in spite of admonitions, was suspended, and was not restored until, in the following year, it had been reduced to order and subordination, under the rules of policy which the Central Board had adopted. The prospect for business, the following year, was considered good; but "much more might be done if the collection laws of the State did not enable so many of the bank debtors to violate their engagements with impunity." The president thought that stay laws might be beneficial both to creditors and debtors in certain conjunctures, but that they ought to be removed when the conjuncture had passed. In 1844 the bank petitioned for and obtained a continuance of the right to issue small notes.

A description of the currency of Indiana, in September, 1843, is as follows: The State Bank paper and the paper of the specie-paying banks of Ohio are the standard; "scrip" is the treasury notes of the State, receivable for dues to the State, but not bearing interest when paid for taxes. "Bank scrip" is a State issue to pay the State Bank for advances to the canal contractors. "White dog" is a State issue to pay for canal repairs, receivable at its face and interest for canal lands east of Tippecanoe. "Blue dog" is a State issue for extending the canal, receivable for canal lands and canal tolls. "Blue pup" is a shinplaster currency issued by the canal contractors and redeemable in "blue dog." The quotations are, "scrip" 85 to 90; "bank scrip" 85; "white dog" 80 to 90; "blue dog" 40; "blue pup"—!*

Illinois.—The session of 1840-41 was called two weeks earlier than usual, in order to provide for the interest on the public debt, which would fall due January 1, 1841. A party fight arose over the question whether this was a special session, which must adjourn in order that the regular session might commence at the constitutional time. The fate of the banks was supposed to depend upon this, because the suspension of the penalties of suspending specie payments had been extended to the "end of the next session." The democrats succeeded in adjourning the called session, which they construed as putting an end to the banks. The Bank of the State, for its own purposes, adopted this construction, and, assuming that it was under compulsion to redeem at once, all discount and loan business was immediately suspended, and the bank refused all further advances to the State or redemption of

* 65 Niles, 69.

auditor's warrants. The State was then indebted to the bank $196,000. This debt was increased in the current year because the revenue was not equal to the expenditure. In stating these facts to the Legislature, the president of the bank closed his document with a declaration of the purity of the motives of the bank; but it was the general opinion then, and became the almost universal opinion afterwards, that the bank had intended to coerce the Legislature to authorize it to suspend again. In the February following, the bank presented a memorial to the Legislature, setting forth that it was exposed to danger and harm, finding itself the only bank in the western country which had resumed. From December 5th to February 1st, it had been forced to redeem $455,000 of its circulation. It pleaded for permission to suspend again and asked outright that the forfeiture of the charter as a penalty for suspension might be repealed, as impolitic and useless.

The refusal of the Bank of the State to redeem the auditor's warrants left the Legislature and the public officers unpaid. "The credit of the State at the same time had sunk so low that the public documents could not be obtained from the post office until the officers themselves became personally responsible for the postage."*

The minority of the Committee on Banks, reviewing, in 1841, the history of the Bank of the State, thus stated the result: "At the first suspension, in 1837, its circulation was only $1.7 millions, and other liabilities about $1 million more, and its resources were equal to its liabilities. At the second suspension, in 1839, its notes in circulation exceeded $2.5 millions and its liabilities exceeded its means by nearly $400,000. On the 7th of December, 1840, after the last suspension, its bills in circulation exceeded $3.2 millions and its liabilities exceeded the available means by about $1 million."

In July, the branch of the State Bank at Jacksonville was robbed, but every accommodation note, bill of exchange, and other evidence of debt in the bank was destroyed and the leaves were cut from the books containing all accounts since 1837. It was discovered that the perpetrator was the teller, who had been robbing the bank.†

The Bank of the State suspended again February 10, 1842. February 27th, an act was passed condoning this, but it was enacted that if it should suspend again for a longer time than the law allowed, it should forfeit its charter. At the same time it was given permission to issue ones, twos, and threes, until January 1, 1843. Both banks were required to resume with the other banks of the West and Southwest.

"To add to the general calamity and terror of the people, in February, 1842, the State Bank, with a circulation of $3 millions, finally exploded with a great crash, carrying widespread ruin all over the State, and into the neighboring States and Territories. In June following, the bank at Shawneetown 'followed in the footsteps of its illustrious predecessor,' leaving

* Auditor's Report, 1842.

† Gouge; Journal of Banking, 40.

the people almost entirely without a circulating medium. The paper of these two banks had been at a discount for specie ever since the United States refused to receive it for the public lands, and to make the banks depositories of the public moneys."

"That which contributed the last spark to the explosion of the State Bank was the course of some of the State directors, who were contractors to finish the northern cross railroad, and who were to be paid in canal bonds, which at the time were unsalable. These interested parties, joining with others in the directory, established it as a principle that the bank could not issue an excess of its paper whilst in a state of suspension. This they did to get loans from the bank to carry on their work on the road; and having obtained money themselves upon this principle, they were obliged to vote loans to all others. But experience soon showed that the principle was false, for no sooner was more paper put into circulation than could be sustained by the business of the country, than the bank exploded. It may be added to this that the State Bank, to obtain favor from the Legislature, was compelled to make loans to the State, and to advance its bills for auditor's warrants for a large amount to defray the ordinary expenses of government; the revenues being again insufficient, and the Legislature afraid to increase the taxes."*

In the spring of 1842, the Bank of the State allowed its notes to fall to 50 cents on $1. As half the revenue of 1841 had been collected, the State officers thought that fairness required that the remainder of it should be allowed to be paid in the same currency. Hence this paper became the only medium of payment to public creditors. "Judges and other officers of government were obliged to take it at par for their salaries, and even the interest on the school fund could only be paid in this worthless currency." The State also had to give its six per cent. auditor's warrants for these notes, which it could only use again at the rate mentioned. "The Constitution expressly prohibited the Legislature from reducing the salaries of the Judges. The object of this prohibition was to preserve the independence of the judiciary. The bank, however, found no difficulty in reducing their salaries more than one-half, and this too when its own officers were receiving liberal salaries in gold and silver." The taxpayers now hastened to pay their taxes for 1842 one year in advance, before the Legislature could take any action to prevent taxes from being paid in this depreciated currency. According to the existing system also this revenue must have been paid into the Bank of the State. The Governor, Auditor, and Treasurer, acting under power which had been given by law, published a proclamation, August 15th, forbidding the payment of school, college, and seminary debts, and public revenue, in notes of the Bank of the State. This left such dues payable in auditor's warrants, of which there were enough outstanding. September 12th, they published another proclamation, warning collectors not to receive

* Ford, 223.

depreciated paper at more than its specie value. In reporting their proceedings to the Legislature they add: "It is folly to hope for better times while the channels of trade are choked up with depreciated paper. So long as the banks are continued in existence, so long will the prosperity of our people be retarded. They have almost sucked the life-blood out of the State already. Instead of bringing in foreign capital and disseminating it amongst the people, they have been effective engines in the hands of foreign speculators to drain the State of all its substantial wealth. Since the establishment of these institutions, there have been $10 millions of money borrowed and expended amongst the citizens of Illinois. Wealth has also been obtained from immigration, and the exportation of domestic products, and yet all this has disappeared as if by enchantment, and the State, in 1842, finds itself steeped in poverty and depending for a currency upon depreciated paper." The implication that the banks were to blame for all this was plainly unjust.

Under a resolution of the Legislature that the State officers should negotiate with the two banks terms for the separation of bank and State, the Bank of the State proposed to yield up to the State the State bonds and State scrip which it held, and to cancel the debt of the State to it, which was nearly $500,000, in exchange for the stock owned by the State. The former amount exceeded the latter by $52,404. The Bank of Illinois agreed likewise to purchase of the State all its stock in that Bank, giving evidences of State debt for it. The State was indebted to this bank $370,000, $200,000 of which was for an advance which this bank had made at the urgent request of the Fund Commissioners and the Governor, that it would advance for a few months the amount which it was expected to borrow in New York. The latter negotiation fell through and the State never repaid the bank. The facts here stated show most distinctly that the banks were by no means the only sinning parties. When the time of catastrophe came, the Legislature and all the civil officers turned upon the banks with ferocity; but the truth stands out in the clearest light that the banks, blameworthy as they were in other respects, had been in a very important degree helped to their ruin by the internal improvement folly for which the civil government of the State was responsible.

Ford says that if the "swindling banks" had swindled only one-quarter as much as they were swindled by the State and by individuals, they would have been perfectly solvent. In regard to confidence, also, he says that "if the banks owed five times as much as they were able to pay, and the people owed to each other and to the banks more than they were able to pay, and yet if the whole people could be persuaded to believe the incredible falsehood that all were able to pay, this was 'confidence,' which, if once destroyed, could only be restored by the restoration of a similar general delusion." His description of the state of things in 1842 is that the people of Illinois were indebted to the merchants. They in turn were indebted to the banks or to foreign merchants. The banks owed everybody. None were able to pay.

In February, 1843, the Governor informed the Legislature that the two banks had surrendered to him the State obligations and that he was ready to burn them in front of the State-house.

The rate of tax for 1843 and the following years was fixed, March 6, 1843, at twenty cents on $100, payable in specie or auditor's warrants, and nothing else. The interest on the public debt was suspended for 1842 and 1843. The Bank of the State was put in liquidation January 24, 1843. It was ordered to pay out its specie as its debts were called for, *pro rata*, on a computation of its debts; certificates receivable for debts to the bank to be issued for the residue. The Court might declare the charter forfeited and appoint three receivers, four years being allowed for winding up. Notes to the bank were to be renewed on the payment of one-fifth; the property of the bank was not to be sold for less than two-thirds of the valuation made by three appraisers. The specie in the Bank of the State was exempted from execution. This act provided for separating bank and State. Joint resolutions were passed February 21, 1843: "Whereas, under our former policy, public works were commenced and prosecuted, and vast and extravagant schemes of internal improvements adopted, utterly disproportioned to our resources and means," and debts have been contracted beyond ability to pay, and the will to pay is doubted, therefore they recognize the obligation to fulfill promises and detest repudiation. "Seduced by an inflated currency and the consequent apparent prosperity," these debts were contracted; but contraction has crippled resources. Inflation "had its origin and aliment in the over-action of the credit system," both in England and here. Patience and labor are needed, with time, to pay.

The charter of the Bank of Illinois was repealed and it was put in liquidation March 3, 1843. It was ordered that the last asset to be realized should be the debt of the State to the bank.

The charter of the city and Bank of Cairo, of 1818, was repealed March 4, 1843, and commissioners were appointed to wind it up, paying out its specie *pro rata* on its debt, and giving certificates for the residue. The commissioners were also to inquire whether the officers had broken any laws in their management.

After the failure of the Bank of Illinois a few of its directors secretly borrowed of it $100,000 in specie with which to purchase bonds, which might be delivered to the State in discharge of the debt to it. The bonds were worth thirty cents on the dollar. Other directors discharged their stock notes with State bonds. The Governor hesitated to receive these bonds, but fearing that, if he refused, the State would get nothing, he made a conditional contract to receive them if the Legislature should approve. The first action of the Legislature in 1844 was that "it would be better to lose the whole amount which the bank owed the State than countenance in the least degree the villainy of its officers;" but it afterwards allowed the bonds to be taken at 48 cents on $1.*

* Ford, 399.

The state of things at the end of 1844 was thus described in the Governor's message: "A depreciated currency then universally prevalent has been withdrawn, and gold and silver and the paper of solvent banks have been substituted in its place." He attributed this to the laws which had put the banks in liquidation, and which had "demonstrated the grand truths which have been doubted by many; that banks are wholly unnecessary to supply a local currency; that money will, in the main, exist and circulate in every country in proportion to its exchangeable property; and that local banks, in fact, impede the equalization of the currency and manifestly tend to derange the exchanges." Banks may be useful in commercial communities, "but if former experience is to be any guide for the future, we must be satisfied that we, in the State of Illinois, are better without them than with them. * * * We ought now to be satisfied that without a greater and more general punctuality in the payment of private debts, it will ever be impossible to administer the affairs of a bank with safety to the people."

The trustees of the old State Bank of Illinois, in 1862, advertised a final auction of its remaining assets.*

This State also had a loss through its bankers. Bonds were hypothecated to McAlister & Stebbins, which were lost through their bankruptcy. An attempt to make an adjustment having failed, resolutions were adopted, February 27th, 1845, that those bonds should not be receivable for debts to the State, except at the amount which the State had realized from them, 26 cents on $1, with interest from June 17, 1841.

Delafield, a New York banker, contracted to take bonds for $583,000, but paid only $170,000 on them. He refused to return the bonds even if repaid. The State claimed that the sale by its agents had been illegal, in that the bonds had been sold on credit and for less than par. The case further resembled the Mississippi case in that the State won five per cent. by exchange which was alleged to offset the loss of interest in making it run from a date earlier than that on which the cash was paid to the State. The Court held that the agents had exceeded their powers; that the sale was below par, and on credit; that the State was bound in faith and honor to third parties, but that the second party was bound to scrutinize the credentials and commission of the agents.† This decision was made in 1841 and gave great encouragement to the Mississippi repudiationists.

MISSOURI.—The Bank of the State of Missouri was chartered February 2, 1837, for twenty years; capital, $5 millions, half by the State; the private subscriptions were payable in specie or certificates of the deposit of specie, in deposit banks of the eastern cities; the State subscription to be made by bonds payable to the bank after twenty-five years; the State funds to be invested in the bank; no notes to be issued until seventy per cent. of the private subscription paid up; the Governor to inspect the paid-up capital;

* 17 Banker's Magazine, p. 476.

† 26 Wendell, 192.

one share to have one vote; not more than half the capital to be employed in dealings in bills of exchange; no loans on its own stock; twenty per cent. penalty for suspension; some notes to be made payable at New Orleans and Baltimore, Philadelphia or New York, and they may be made payable at any respectable bank in the United States. The bank may borrow not more than $5 millions, payable in five years, to lend on mortgage in Missouri; this last fund and its accounts to be kept separately; to pay the State annually one-quarter of one per cent. on the private part of its capital in lieu of bonus and taxes; lowest note, $10; to be the fiscal agent of the State; the note issue not to exceed double the capital for the first five years; if it suspends, to forfeit its charter. February 15, 1841, an amendment was proposed to the stockholders to repeal the provision for branches and for the loan to be lent on mortgage.

Governor Boggs, in his message, November 17, 1840, boasted that the Bank of Missouri had resisted the second suspension in 1839, "and in so doing has not only gained honorable distinction, but has shown how easy it is for the banks of any State to resist these suspensions." He complained, however, of chartered insurance companies in St. Louis, which, although not allowed to issue notes, circulated the notes of foreign banks. He also complained that, although there were heavy penalties for the circulation of notes under $5, "notes of lower denominations have been circulated freely ever since its passage, and has any one been prosecuted under that law? Not in a single instance that I have heard. The law is a dead letter on your statute book, and your courts either cannot or do not enforce it."

In 1842, the Governor complained earnestly of the issue of small notes by cities, towns, and county courts; also of the issues made by unauthorized companies or companies chartered for other purposes; also of the great amount of depreciated paper from other States, especially from Illinois. After having, in 1839, with the approval of the Legislature, resolved not to do business with the paper of any suspended bank, the Bank of the State changed its policy, in the spring of 1841, and began to use such paper in its transactions.*

Resolutions were adopted by the Legislature in February, 1843, that the Bank of the State ought not to receive the notes of any suspended bank, and also ought so to manage its business as never to suspend.

An issue of State bonds to the amount of $175,000 was ordered, in 1842, in order to pay the debt of the State to the bank, and a committee was raised to investigate the bank. The circulation of notes under $5 was also prohibited after July 1, 1843, and after January 1, 1844, the circulation of those under $10; after July 1, 1843, no note of a suspended bank was to pass or be dealt in. Contracts in such notes were declared void. All banking privileges, except those of the bank of Missouri, were declared unconstitutional and void. All charters of companies which should violate this law were to

* Governor's Message, 1842.

be annulled. The Bank of Missouri might sell the depreciated paper held by it.

The Bank of the State had in its possession, in 1844, $2,230,000* of the bonds of the State given to it for its capital, which it had not negotiated on account of the depressed condition of the market for such securities. A legislative committee reported that if it should sell these bonds, as it might do, "it would prove most disastrous to the State and be of little or no benefit to the bank;" and that the bank had as much capital as it could use. It then held $225,020 in notes and drafts issued by the Bank of Illinois, of uncertain value, not exceeding 50 cents on $1. The dividends received by the State, and the bonus, when compared with the interest on the bonds of the State, issued for the stock in the bank, showed a deficiency of $32,855. The educational funds which had been invested in the bank stock had secured an uncertain and irregular income. "The history of the bank proves most conclusively that it never can be made a source of revenue to the State." The bank was denounced as not having served the purposes of its creation, especially because it had used the notes of the suspended banks instead of driving them out.

By a joint resolution of January 30, 1845, the bank was ordered to deliver all unsold State bonds in its possession to the agent appointed to bring them to the Legislature.†

The Governor, in his message, November 18, 1844, was able to say: "The circulating medium of our State has been greatly improved, and indeed it is believed that at no previous time has our currency been in a sounder or better condition than at present. All the worthless and depreciated paper of other States has ceased to circulate among the people, and in its place may now be seen in circulation a fair proportion of silver and gold."

In 1855, the Bank of the State was continued until 1861.

* This is the figure given in the Treasury Report of August 10, 1846, but it must be in some way erroneous.
† See page 384, note.

PERIOD V.—1843-5 TO 1863.

Under the Independent Treasury System, the Regulation of Banking and Currency is left entirely to the States. The Federal Government Handles only Coin. Banks Organized under General Joint Stock Laws gradually, and to a great extent supersede Chartered Banks. In the Ohio Valley and the Northwest, Banks of the new kind run to great extravagance and abuse. By the development of new Institutions of Finance, Commerce, Transportation, and General Industry, Banks lose Comparative Importance.

CHAPTER XVI.

THE LOCAL BANK SYSTEM. THE GOLD DISCOVERIES AND CONSEQUENT EXPANSION. THE COMMERCIAL CRISES OF 1854 AND 1857. THE AID GIVEN BY THE BANKS TO THE FEDERAL GOVERNMENT AT THE BEGINNING OF THE CIVIL WAR.

§ 1.—*The Local Banks, by States; 1845 to 1860.*

THE banking capital of the country reached its lowest ebb in 1846, $196.8 millions. The bank note currency was at its lowest in 1843, $58.5 millions. It cannot be doubted, therefore, that the liquidation of this period went far below the normal line before the financial system of the country could be started again in its regular activity. From this time until the civil war the country depended entirely upon the local banks. After the re-enactment of the sub-treasury system, in 1846, the federal government went its own way, using specie in all its transactions, and giving up all responsibility for the currency used by the people. No solution of all the great currency controversies of the last fifteen years had been reached, but this state of things was brought about by a deadlock between all the factions which had been developed by those controversies. No one of them could carry its point.

In general, it may be said of all the banks in this next period, that they had developed to a new stage, as compared with anything in the previous history. They ceased almost entirely to be political. This was in part a consequence of their great number and of the smallness of each. They constituted, of course, a strong interest in each State whenever they were united; but in federal affairs they were not influential. They also ceased to be mysterious. In spite of their opposition, it may be said that they had, in this period, been brought to submit to the visitorial power of the State and to make public statements of their affairs. Their relative importance in the community also fell very much at the middle of the century. Other financial institutions were developed by the side of them, and great corporations were formed for other purposes, which grew so great as to overshadow the banks. In the earlier part of the century, they had been the only possessors of corporate power. In the older parts of the country also the accumulation of capital had now become so great that the old banking system of paper-money-mongering was out of date. Not that that system was given up by any means by the banks in the country towns. The banker's art consisted still, to a great extent, in getting a "good circulation" for his notes, and knowing when to put them out and when to take them in; but, at least in the largest centers, the accumulation of capital was such as to feed the deposits and give the banker an opportunity for a higher art of banking. In such places the circulation sank in importance. The check began to supersede the bank note, and the predominance of the currency over the affairs of men began to decline.

The effects of the financial catastrophe through which the country had passed in the previous period were seen in legislation for perhaps a decade, but then they were gradually forgotten. The literature of this subject for fifty years had repeated the same inferences, lessons, and warning; but all the doctrines of currency have to be learned over again apparently every ten or fifteen years, if indeed they are ever learned at all. From the landing of the first settlers at Massachusetts Bay until to-day, the country has never enjoyed ten years of peace, rest, and security, with an established and satisfactory system of currency. In 1852, there were no banks in Florida, Texas, Arkansas, Illinois, Wisconsin, Iowa, Minnesota, Oregon, California, and the District of Columbia.* This was, however, no security. The States could not escape from a repetition of the woes they had endured by simply renouncing banks. Iowa was flooded with notes from New England. The Governor of Arkansas, in 1854, complained bitterly that that State was full of foreign notes and counterfeits, especially small notes, although it had no bank and was determined not to have any, and had legislated vigorously against small notes and change tickets. The coinage laws were such, until 1853, that fractional coins of the federal coinage could not be kept in circulation with bank notes redeemable in gold. There was, therefore, a constant

* Treasury Report, August 31, 1852.

stimulus to the issue of fractional notes, and the people were led to acquiesce in it, and to use those notes, however great might be their dislike to them, because there seemed to be an absolute need which must be satisfied in some way.

The States which had no banks, therefore, generally had a worse currency than those which had banks, with the additional disadvantage that they could not control it.

Some concensus of opinion had also been reached in regard to correct methods of banking. Many of the old errors and abuses were no longer practised or practicable. When it came to details, however, the maxims which were advocated were very heterogeneous, and the laws which were passed in the different States were often very contradictory. Perhaps sufficient attention was not paid to the great variety of the cases which must occur in banking; to the flexibility of the banking system; to the elasticity of a great many of its terms. Although we speak of banks as a single and simple category, yet we know that banks are a group of very heterogeneous institutions. A bank in a great metropolis, dealing with merchants; another in a manufacturing town; another in an agricultural village; others in the region of the great staples, cotton and grain; and another on the Pacific coast will have such different classes of business that they must have varieties of system and different methods and processes, so that the maxims of wisdom for them all cannot be the same. If legislation, therefore, attempts to lay down maxims of business, it is very sure to do mischief.

During this period the general tendency was to supersede charters by general banking laws, and the free banking law of New York served as a model. It made its way against a great deal of opposition. It is difficult to see in the history of the chartered banks what could have been the ground of a certain feeling which existed that a "chartered institution" presented great safeguards. In Massachusetts, although a free banking law was passed in 1851, no bank had been organized under it in 1855. In the Western States, as we shall see presently, it was proved that the system, when abused, is capable of the very worst results. Half or more of the States, however, had adopted it before the civil war.

MASSACHUSETTS.—The Suffolk Bank system maintained itself in New England with great success. In 1850, the average daily redemptions were about $750,000, and the business was very remunerative. The Governors of Maine, in their messages, often found occasion to refer to the system, which they almost always did with approval. There was a certain coercion about the system which drove all the banks into it, because, as was proved in Maine, the notes of a bank fell to a discount, even when it paid specie at its counter and was well managed, if it was not in the system. The Bank Commissioners argued, in 1842, that currency which was not available at the great center of business of New England was not cash, and they raised the question whether the three banks which did not redeem at Boston were not under a moral obligation to do so.

A case is given of a bank in Bangor which, in 1853, secured the passage of a law granting a bank a delay in the redemption of notes presented at its counter. When the Suffolk Bank made demands, this bank used the delay by means of its agent in Boston to draw specie from the Suffolk Bank with which to meet the demand.* We also hear of the operation of the system in Vermont, where there was not much resistance to it and where all the indications are that its influence was good. The Commissioner reported, in 1853, the case of the South Royalton Bank, which was in failing circumstances, and which, when the agent of the Suffolk Bank presented $27,000 for redemption, caused the notes to be attached, and commenced a suit against the Suffolk for an attempt at malicious injury. The suit was decided in favor of the Boston bank. A messenger of the Suffolk went to the Newmarket bank, New Hampshire, in 1860, to present notes for redemption to the amount of $20,000. They were paid promptly, but $5,000 was at once attached in a suit for illegal annoyance.†

The statements of the Connecticut Commissioners also are always favorable. It is stated by them, in 1849, that the total bank note currency of that State was redeemed at the Suffolk every sixty days. There was a constant tendency, however, during the period now before us, for the Connecticut banks to turn to New York as their center, because the business of the State was being drawn thither.

In 1854, the redemption business of the Suffolk Bank had grown so large that it employed seventy clerks and it was scarcely possible to maintain accountability. A fund was created on behalf of the clerks, to which losses in the department were charged. It was credited with $5,000 annually, and the interest of the surplus over losses was to be divided amongst the clerks. The losses, however, exceeded the fund.

The Suffolk system, however, always produced irritation in the country banks. In 1855 they obtained a charter for the Bank of Mutual Redemption, which was a co-operative association of themselves. It went into operation in 1858. The Suffolk published a notice that it would not continue the system of redemption after November 30th. After some friction with the new bank, however, the business of redemption was divided between them. The reason given by the Suffolk for its position was that it would not consent to relax the stringency of the system in respect to "its main feature, the right to send home bills for specie." "It was the underlying principle of the Suffolk Bank system that any bank issuing circulation should keep itself at all times in a condition to be able to redeem it; that it should measure the amount by its ability so to do; and that the exercise at any time of the right to demand specie of a bank for its bills was something of which the issuing bank had no right to complain."‡

The Bank of Mutual Redemption certainly did not go on with its business on such conservative principles as the Suffolk. It violated the law

* Whitney, 48. † 15 Banker's Magazine, 890. ‡ Whitney: Suffolk Bank, 60.

by pledging its bills for loans, the notes not to be put in circulation for a specified time. It also did not keep the specie reserve required by law. The Bank Commissioners, in 1862, were forced to institute suits against it, in which the decision on all the important points was against the bank.

In discussing the point at issue about such pledges for loans, the Commissioners quoted the Superintendent of the clearing house at New York, that the action of the clearing house on the city banks had proved the positive principle of the "restriction of loans by the necessity of maintaining a certain average of coin from resources within the banks;" that is to say, that the prescription of the ratio of specie which the bank must maintain would limit its loans and control its business.

It will not have escaped the notice of the reader that the Suffolk system was established in Massachusetts only after several earlier attempts had failed; that it went through many vicissitudes; that it was sustained by the fact that Boston was the great emporium of the section in which the system was operated; that other attempts to set up the same system met with but slight success;* and that perhaps it must be regarded as having failed at Boston; at least that when it was superseded by the national bank system, it was in a condition of partial disruption.

The Legislature, May 18, 1852, appropriated the sum of $2,500 annually for five years, in aid of the efforts of any association for the suppression of counterfeit notes. This led to the formation of such an association in the following February. It offered prizes for the invention of paper, ink, etc., which would make counterfeiting impossible, and exerted itself in the prosecution of counterfeiters.

The Boston clearing house began operations March 29, 1856.

One of the tentative steps towards the invention of clearing-house certificates was the agreement of the banks in the Boston clearing house, in the crisis of 1857, that the notes of the banks, in a determined proportion to their capitals, should be received instead of specie in the settlement of balances.† It was said that the New England Banks had, at that time, sent their circulation to the West, to such an amount that they would have been ruined by its return, but for the united protection and defense of the Suffolk system.‡

A revision of the banking law, in 1857, provided heavy penalties for passing bogus bank notes, including uncurrent and worthless bank notes. The humble individual must therefore take the notes up to the moment of failure, and must not pass them after that moment, under penalty of the House of Correction.

In the following year the unceasing currency problem was taken in hand again, and it was enacted that every bank must hold fifteen per cent. of its circulation and deposits in specie, redemption balances being credited as

* See Index: Suffolk System. † 12 Banker's Magazine, 420. ‡ 14 Banker's Magazine, 173.

specie in hand, and circulation was limited to capital. In 1863, Amasa Walker declared: "I know that the banks of Massachusetts are almost entirely regardless of the law which requires them to keep fifteen per cent. in specie."*

In a banking law of MAINE, of 1845, one-half of the capital was taken as a measure of what might be considered the permanent circulation of a bank, which would not be presented for redemption, and banks were required to hold in specie one-third of any issue beyond this amount.

The charters of all the banks in Maine expired by law, October 1, 1857. Sixty-five enumerated banks were re-chartered, April 14, 1857, for ten years, subject to a tax for schools of one per cent. per annum on their capital. The relation of specie reserve to circulation was kept as in the law of 1845. The reserve in the Suffolk Bank, not exceeding $3,000, might be counted as in the vault, but at least five per cent. of the capital must be actually on hand in specie.

The Bank Commissioners, in 1862, stated that the banks found that their redemption in Boston was not nearly so prompt as in former days. The only explanation the Commissioners could give was that, in the unsettled state of public affairs, the people had more confidence in the local currency than in any other paper currency.

CONNECTICUT.—Under the system of deposit-stock, the civil list fund of the State, amounting, in 1852, to $406,000, was deposited in banks; likewise $359,900 belonging to the school fund. The income for that year was at the rate of eight and fifteen-sixteenths per cent.

When the national bank system was established the question of the status of these "qualified" shares became serious. The Supreme Court of the State decided that a bank which had surrendered its State charter, as a preliminary to becoming a national bank, must pay the State a share in its surplus, as it would do if winding up. Another bank, which had somewhat hastily included the State in its articles of organization as a national bank, was held to have waived its chance to exclude the State, and it was obliged to retain the State in the national bank.† In general the transition to the national system put an end to this old Connecticut arrangement.

A general banking law was passed in this State in 1852, after a hard struggle of two years' duration. A special stress was laid upon the provision that every bank must be one of discount and deposit, and not simply of circulation. This law, however, was so modified in 1855 as to be in effect repealed, by converting all the free banks into joint-stock banks under a general law. The notes were to be surrendered and the securities taken up. Circulation was limited under the new law to one hundred and fifty per cent. of the capital. In case of failure, the note-holders "shall have a lien on all the estate of said corporation of every description." No more banks might be formed under the law of 1852. June 26th, all the

* 17 Banker's Magazine, 839.

† 34 Conn., 205; 240. (1867.)

banks under the law of 1852 were compelled to accept subscriptions of charitable and educational societies, according to the Connecticut custom.

The crisis of 1857 played havoc with the small banks of Connecticut, especially with the newly established free banks. The failure of this system in Connecticut and New Jersey, adjacent to the commercial metropolis, is a noteworthy phenomenon. In the following year the ratio of circulation to capital was reduced to seventy-five per cent. One-tenth of the circulation and deposits must be held in specie, but a deposit for redemption might be counted as a part of this requirement, provided that the actual specie reserve should be one-tenth of the circulation. It was also forbidden to pay interest on deposits.

The Bank Commissioners reported, in 1860, that the banks were obeying the law. "Numbers of them have heretofore been reported for violations of law, some of which were of a flagrant character."

During the summer of 1861, the circulation of the banks of Connecticut was reduced to a very low figure, but upon the collapse of the western currency it was increased for use in the western States, and reached a greater amount than at any time since 1857.*

One of the greatest difficulties with which the New England States had to contend, in respect to banking, was the repetition of the old fraud by which a "speculator" from one of the great cities bought up the charter of a remote and obscure country bank, in order to make an issue of notes which could be used either directly or indirectly in the furtherance of his schemes. Several such cases occurred in Connecticut between 1850 and 1860. They quite altered the aspect of banking in that State, where there had not been a failure of a bank since the Eagle Bank failure in 1825.

New York.—Upon the recommendation of the Comptroller, in 1845, the State issued bonds to pay the creditors of the banks in the safety fund system which had become insolvent, in order to relieve "the safety fund system from the odium of bankruptcy under which it has been suffering since 1842. The sound banks have been great losers by the swindling operations of some of their associate banks, and already the sum of $1,502,170 of the common fund of all the banks has been paid on account of the redemption of circulating notes of nine banks which have failed."

In his report for January, 1846, the Comptroller gave a history of the safety fund and free banking systems. "The loss to bill-holders, on the supposition that all the securities had been stocks of this State and bonds and mortgages, would have been over sixteen per cent., while the actual loss has been nearly thirty-nine per cent. The loss to the first holders of the safety fund notes was from twenty to twenty-five per cent., and there has been a loss of about four years' interest to subsequent purchasers; whereas, in the cases of the free banks the securities were sold and the proceeds paid to bill-holders, within a few weeks after the failure of the

* Bank Commissioners, 1862.

bank. If the bank fund of 1829 had provided only for the redemption of circulating notes, as is the case with the act for free banking, all the notes of the safety fund banks which have failed would have been paid at par by the contributions made to the safety fund from 1831 to 1845; and if the present plan of registering notes had also been in operation, the result would have been still more favorable, as fraudulent issues have been redeemed from the safety fund to the amount of $700,000."*

In the Constitution of 1846 it was enacted that no banking association might be created except under a general law. "The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments, by any person, association, or corporation, issuing bank notes of any description." All circulating notes must be registered and secured. Stockholders in any association issuing circulating notes were to be "individually responsible to the amount of their respective share or shares for all its debts and liabilities of every kind contracted after January 1, 1850." Note-holders were to have preference over all other creditors.

The amount of circulation of the free banks still exceeded the value of the securities deposited, in 1847, by $127,077, although the securities were so rapidly appreciating that the margin was vanishing.

The abuse of shaving one-half of one per cent., by putting a bank away in some obscure village in the country, having been invented, was continued. The Comptroller, in 1847, complained of it, and gave a number of cases. Consequently the act of April 12, 1848, was passed, by which it was enacted that the business must be done at the domicile of the bank, and that every return must bear an oath that this act had been complied with. The same act provided that only the stocks of the State of New York bearing six per cent. interest might be deposited in the Banking Department, never being taken above par or above the market.

The act of 1837, fixing the limit of circulation for the safety fund banks, was modified, in 1848, so that those which had more than $200,000 might have a circulation equal to their capital. The Comptroller urged that the two systems, the safety fund and the free banking system, ought to be reduced to one by a choice between them. The amount of State bonds which had been issued in loans to the safety fund was $900,828. The average rate at which bank notes of suspended bond-deposit banks were redeemed, down to 1848, was 67.71 per cent.

The law of April 5, 1849, was an elaborate act to put in force the new constitutional provisions. It became the constitution of the banking system of the State, until the national bank system came in. The safety fund banks were allowed to go over into the free bank system. United States stocks might be deposited as security in the ratio of one-half. The liability of a

* The Bank of Buffalo was entitled to $200,000 circulation. Up to January 1, 1844, $433,329 of its notes had been redeemed. (Comptroller's Report, 1844).

stockholder was fixed at double the amount of his stock. The receiver of a broken bank was to make a dividend on what he had realized at the end of six months, and then to proceed against the stockholders, under this liability, for a deficiency in the amount requisite to redeem the circulation. It was also enacted that all banks and bankers under this law should be institutions of discount and deposit as well as of circulation; but as no penalty was prescribed, the Comptroller, in 1850, reported that this provision had been evaded.

"It was not until 1849 that the general bank law became a fixed fact in the minds of the capitalists of this State." Until that time they tried to use it to create unsound institutions, or banks of mere circulation. In 1851, it was required that country circulation should be redeemed at New York, Albany or Troy, at one-fourth of one per cent. discount. "This act literally closed the door to illegitimate banking in this State."*

In 1851 two Wall Street banks had their nominal place of issue at Tom's River, New Jersey. Besides the two banks, the village consisted of four stores and a public house. The landlord of the public house was president of one bank, and the keeper of one of the stores president of the other. It took three days to go there, present demands, and return to New York. The New Jersey law allowed a bank three days' grace. The bank could therefore send to New York for specie after the demand was made.†

In 1851, it was found that the duties of the Comptroller were too numerous and various, and the Banking Department was organized independently under a Superintendent.

The Metropolitan Bank was started in 1851, in order to introduce the Suffolk system, the old troubles with the country notes being still experienced. The circular of the Metropolitan Bank set forth that it would receive all New York State country bank notes, crediting them on the following day at one-fourth of one per cent. discount, and all New England notes, good at the Suffolk, at one-fifteenth of one per cent. discount, provided that the par-redeeming banks should keep a deposit of not less than $5,000 each, paying seven per cent. on any over-draft with respect to that sum, and the Metropolitan paying four per cent. for any excess beyond it.‡

An attempt was made in 1855 to establish a co-operative system amongst the New York country banks for the redemption of their notes, but it failed. They did not propose to put the currency at par, but to keep it at the legal limit of one-fourth of one per cent. discount.§

In the New York system of redemption, the legal limit of one-quarter of one per cent. was not taken as a maximum of toleration, but as a standard of perfection, although there were some country banks which established a par redemption for their notes. The difference between par redemption and discount redemption was thus stated by the Supreme Court of Pennsyl-

* Superintendent, 1859.

† 6 Banker's Magazine, 160.

‡ 6 Banker's Magazine, 111.

§ 10 Banker's Magazine, 306; 570.

vania: "In the one case the notes are redeemed for the benefit of the holder without profit to the bank; in the other, at the cost of the holder for the benefit of the bank."* The money of account of New York was one-quarter of one per cent. below that of New England.

The New York clearing house began operations October 11, 1853, in the basement of 14 Wall street. Its first effect was to force some contraction of bank loans. The same effect was produced by the requirement by law of weekly bank statements, which went into effect August 1st. Both had the obvious effect of forcing the banks to higher and more uninterrupted degrees of banking soundness and security.

Individual bankers doing business under the general banking law were forbidden, by a law of 1854, to sell the business. They were required, upon discontinuing, to pay back the notes and take up the securities.

The Superintendent, in that year, said that it was not believed that the mortgages in the guarantee fund of the free banks had brought more than seventy-five per cent. of their face value, when it had been necessary to sell them. He inferred that, for this reason, and also because they were not capable of prompt realization, mortgages were not properly available as security for currency. A year later he said that there had been only a single instance in which the circulation of a failing bank had been redeemed in full at par, when the circulation was secured by bonds and mortgages, and not any, when it was secured by the stocks of other States than New York. The use of mortgages as a basis of circulation was abolished April 29, 1863.

Any bank was required, by a law of April 30, 1857, if it held more than $10,000 in the notes of another bank, to present them as often as once a week, in the exercise of its right to demand redemption. Each bank must also elect, and make known its choice, whether it would take the redemption of its neighbor's notes at the counter or at the redemption agent's. This law was complained of as giving banks days of grace. Its constitutionality was disputed, as it was signed more than ten days after the Legislature adjourned.

From 1844, the railroads were constantly in the market, borrowing. Money could hardly ever be had outside the banks for six per cent.†

The discovery of gold in California and Australia at the middle of the century produced the same effect on the whole civilized world which is produced locally by an issue of irredeemable paper money, with the difference that it was limited in its amount, and in the rate of its introduction into the circulatory system, by the difficulty of production, and also that, having once been introduced, it was not again withdrawn. The trade to California was exceedingly speculative. A cargo might arrive when the market was bare, or it might arrive with a number of others. The increase of price fell first upon the things which the miners wanted. The new gold passed, in the first place, into the hands of the mercnants dealing in these goods. From them it passed to the producers of the same. From them to those

* 26 Pennsylvania, 451.

† Martin; Boston Stock Market, 17.

who supplied their wants, in this case the European producers of articles of luxurious consumption ; and so on in ever widening circles, the influence being less as the distance was greater. At every step it might be accumulated and serve to transfer capital into investments, such as mills, factories, and railroads, every one of which felt the stimulus of a rise in prices promising gain. The rise in prices became marked in 1853. In the first years of the sixth decade the harvests in England were good and the rate of discount low. Then followed the Crimean war and a bad crop in 1853, the result of which was a speculation here in wheat, and extensive railroad building in the West.

The market report in August, 1852, was: "Capital is accumulating rapidly in the large cities and is met by a large demand in behalf of various improvements, public and private, and for business purposes. Enterprise is now under full headway. Every portion of the country is teeming with new undertakings requiring a heavy outlay of capital and labor, and indicating rapid strides in wealth and prosperity."*

The amount of American stocks held in Europe was estimated in that year at $261 millions.† This investment of European capital increased very rapidly during the following years.

The railroad construction in the Ohio States was checked for a time by the Schuyler frauds which were discovered in July, 1854. The president of the New York and New Haven Railroad was likewise transfer agent, whereby he was enabled to issue spurious stock to the amount of $2 millions. The genuine stock was only three millions, and the total cost of the road only about five. Frauds were also discovered in the Harlem and Vermont Central, consisting likewise in over-issues. These occurrences were well calculated to produce a panic in railroad shares, and to restrict the new enterprises which relied on an active demand for their shares.

The financial troubles of the summer of 1854 were spoken of as the most serious since 1837. "The abstraction of capital to a large extent for the construction of long lines of railroad in Ohio, Indiana, Illinois and other States has hampered this market for a year past. Such has been the pressing demand for capital for these new concerns that railroad paper has been amongst the heaviest in the market. Some companies have paid as high as one and a half or two per cent. per month for a series of months, and that too on large sums."‡ A very great reduction in bank circulation took place, especially in the Ohio States, Kentucky, Maryland and South Carolina.§

In the United States the money market and share market were feverish and unsettled from the panic of 1854 until that of 1857. There is no real interval between the two.

It does not appear that there was any bank inflation on the new gold. From 1855 to 1856 the circulation decreased as well as the deposits, while

* 7 Banker's Magazine, 251. † 7 Banker's Magazine, 252. ‡ 9 Banker's Magazine, 158.
§ 9 Banker's Magazine, 665.

the specie and specie funds also underwent a slight decrease. The New York City banks generally had more specie than circulation, while there were on all sides the greatest evidences of prosperity. It is true that the number of banks in the city increased from twenty-five in 1849 to fifty-two in 1853, and that the number did not go above fifty-five before the war. The capital also increased from $25 millions in 1849 to $44 millions in 1853, and $59 millions in 1857; but it went on steadily increasing to $69 millions in 1860. The deposits also, which were $36.9 millions in 1851, steadily and rapidly increased to $70.6 millions in March, 1857; but in June, 1858, they were $74.8 millions and kept on increasing until, in December, 1861, they were $91.4 millions. There was, therefore, no bank inflation at New York in the special period preceding the crisis of 1857. The justest view of the case is that there had been an expansion of prosperity and enterprise, stimulated by the new gold, which had gone on with such rapidity that a crisis was produced in its development. Comparing 1857 with 1849, the imports had increased one hundred and thirty-three per cent.; the bank capital, one hundred and sixty per cent.; the bank loans, one hundred and forty per cent., and the bank deposits two hundred per cent.* The leading features of this crisis were that it was world-wide, very sharp and sudden, and quickly over. The crisis was a very severe one, but it was only a halt in a course of rapidly advancing prosperity. It may be added that it was also especially a banking crisis.

A definite discrimination is intended here between the terms crisis and panic. When certain forces have been set in operation in the commercial organization by antecedent acts or occurrences, their consequences must follow. They may combine in such a way, or advance to such a pitch, that a "crisis" is produced. A "panic" is properly psychological. It is a wave of emotion, apprehension, alarm; it is more or less irrational; it is superinduced upon the crisis, which is real and inevitable, but it exaggerates, conjures up possibilities, takes away courage and energy. It is not possible to preach down a crisis. It is a fact and is there; it must run its course and be accounted with for all there is in it. The soberest man appreciates the facts the best. It is useless to preach "confidence" to him in the face of the facts which infuse suspicion and warning. A panic can be partly overcome by judicious reflection, by realization of the truth, and by measurement of facts. The one thing, however, which kills a financial panic is a prompt and fearless offer by the banks to grant loans to all solvent customers at a rate such as the market calls for. A man who is told that he can have no help on any terms falls into a panic, seeing no escape from failure; one who is told that he can have a loan, if he cannot get along without it, but at some enormous rate, recovers from panic and goes home to see if he cannot manage some other way rather than pay such a rate. Banks, however, in order to be able to apply this remedy, must be strong and suffer from no panic themselves.

* 12 Banker's Magazine, 429.

It was expected in the spring of 1857 that the crop in England would be poor, and a speculation began for a rise in grain. It turned out, however, that the crops were all good, and the price fell. The mercantile failures were numerous, even in the first months of the year, but a commercial crisis was so little expected that the discount rate was lowered in July. It was this failure to foresee the crisis and to prepare for it which allowed it to get such headway that it became necessary to suspend the bank act and issue uncovered notes.

There were a few failures here at the beginning of August. August 24th, the Ohio Life and Trust Company failed, and a few days later the Mechanics' Banking Association at New York. The Pennsylvania and Maryland banks suspended immediately afterwards. A panic, however, did not at once develop.

The Ohio Life and Trust Company had been in excellent credit. McCulloch says that its failure was like a thunderbolt from a clear sky, and that its New York agents had speculated with its funds and ruined it, while the directors in Cincinnati thought it absolutely sound. The real trouble with it, however, and with the other banks also, was that they had advanced funds for railroad building, which at the time was particularly active in the Ohio States. This passive debt of the Ohio Company was stated at $5 millions. Towards the end of September, the pressure upon the country banks in New York to redeem their notes was very great, and they began to return their circulation and take up their bonds in order to execute their redemptions. If notes of any bank were presented at the redemption agencies at the Metropolitan and American Exchange Banks when there were not funds, those notes were immediately thrown out and the bank was posted in all the newspapers of the State as having failed.

"The suspension was preceded by a desperate struggle between all the banks themselves, and distrust and fear of currency was more apparent among them than with the public generally." The banks began a savage contraction, being in no position whatever to meet the crisis by bold loans to solvent borrowers. It was afterwards said, with great good reason, that the panic was entirely unnecessary and need not have occurred;* but the banks put all the pressure on their loans to merchants because they could not recall those to the railroads. The loans were $95 millions January 5, 1856; $[illegible] millions August 8, 1857; but were reduced to $101 millions on the [illegible]th of October. At that time the rate for loans had advanced so far that [illegible] could not be quoted. Loans were not to be had, and during the [illegible]ng week the bank loans were reduced to $67 millions, with a run on [illegible]e banks for gold, which carried the specie stock down from $13.5 millions, on the 19th of September, to $7.8 millions on the 17th of October; but this was comparatively unimportant. The circulation of the city banks fluctuated hardly $1.5 millions. The merchants organized a run on the banks for the deposits.

* 12 Banker's Magazine, 430; 780.

"In New York City it became a question of the suspension of the banks or of the merchants as a body. Capital in the shape of deposits, for the first time in the history of this country, and I think I may say in the world, sided with the business men and against the banks. The great concentrated call loan was demanded, and in such amounts that a single day's struggle ended the battle; and the banks went down before a storm they could not postpone or resist. * * * The most sagacious banker, in his most apprehensive mood, never for a moment deemed it possible to have a general suspension in this State from a home demand for coin; while coin itself was at little or no premium with the brokers."*

The banks of New York City all suspended but one—the Chemical. The suspension became general except in the Ohio Valley, at New Orleans, in South Carolina, and some scattered exceptions elsewhere. Fourteen railroad companies, amongst which were some of those which are now the strongest in the world, suspended payments. The failures were put at 5,123, with liabilities for $299.8 millions. A meeting of representatives of the banks was held October 13th, at which it was resolved to send a committee to Albany to ask the Governor to call an extra session of the Legislature "to consider the necessity of enacting some law to give relief in the present financial emergency." The Governor excused himself from action. The Constitution, in fact, explicitly forbade anything which the Legislature might have proposed to do. Resort to the judiciary was more successful.

During the run, October 14th, two one-hundred dollar notes were presented at the Bank of New York, with a demand for specie, which was refused. Application was made to a Judge of the Supreme Court for an injunction, which was refused, on the ground that, although, during a period of general suspension, a bank may refuse to redeem its notes, yet that does not prove that it is insolvent, since it may have assets greatly in excess of its liabilities. This was in accordance with an agreement which the Judges had entered into, and it was in line with earlier decisions interpreting State laws which provided for an injunction when note redemption was refused.† Nevertheless, it was nothing less that a *coup d'etat.* The Constitution had explicitly provided against any suspension of specie payments, on any pretext whatever, and this constitutional provision now proved as ineffective as all the old legislative enactments. The situation was somewhat paradoxical. It had been hoped that the severe constitutional prohibition would prevent the banks from ever putting themselves in a position to suspend. They had come into that position. It was said that the terror of forfeiture was what made them adopt their policy of self-protection, to the ruin of the mercantile world, although the construction of the bankers was that the public was in a panic lest the banks should all be wound up in case they suspended.‡ This was the knot which the Judges cut, and everybody was forced to acquiesce in their action. It was a most conspicuous failure of

* Superintendent, 1857. † 5 Cowen, 161; 6 Cowen, 211. ‡ 16 Banker's Magazine, 628.

legal regulation of banks, and illustrated that dilemma of legislation in which a restriction to be effective must be intensely severe, and if it is intensely severe, proves impracticable when it is needed.

During this crisis the banks of New York City enclosed the country bank notes, of which they held about $7 millions, in packages of $5,000 each, and passed these packages to each other in the settlement of balances. This was another of the tentative steps towards the later device of clearing-house certificates. The country banks were called upon to redeem these notes November 7th.

The New York City banks resumed in the middle of December. It is said that they had never refused to redeem their notes. The other banks of the North and East generally followed them. The Pennsylvania banks did not resume until April following, and those of the West and South delayed much longer.

This crisis well illustrated the most subtle difficulty there is in the analysis of commercial crises. The rate of interest properly is governed by the supply and demand of loanable capital. At some point, which cannot be determined by analysis, in a time of crisis, that rate comes to be a rate for the money of account, whatever it may be, and it comes to depend on the supply and demand of that money. It is generally said that this results from a failure of credit; and that is true; if by credit is meant the holding open of credits for some time, until other credits on the other side are presented to cancel them. In the crisis this arrangement is suspended for various reasons. There is need and desire to touch cash. This is greatly increased by the panic element, if that comes in. A double operation is therefore performed, both parts of which are harmful. There is a holding of the currency, which is the solvent of debts, just at the time that there is a call for a greater supply than is required in ordinary times. In 1857 there was no stringency in the capital market antecedent to the crisis. The rate for capital was not high. The same was true of England. Confining our attention to New York, we note that there, as this crisis advanced, on account of the attitude adopted by the banks, the rate for current cash advanced until it could not be quoted. There was none to be had in the market.*

One safety fund bank failed before 1857 when there was nothing in the fund with which to redeem its notes, and three more during the crisis.†

The circulation in the State was 50.67 per cent. of the bank capital in 1850. The ratio steadily declined until 1858, when it was 22.02 per cent. In 1859 it was 24.18 per cent. The Superintendent argued from this that the note issue was declining in importance.‡

The New York Clearing House Association recommended its members, in March, 1858, to hold a reserve of twenty per cent. on cash liabilities, exclusive of circulation.§

* In 1893 resort was had, in the same case, to illegal issues.
† Superintendent, 1858.
‡ Report, 1859.
§ 13 Banker's Magazine, 574.

The banks of New York State succeeded at last in establishing an "Assorting House" at Albany, by agreement, on the 5th of April, 1858. All the notes were to be redeemed at one-fourth of one per cent. discount and paid on the following day at Albany, Troy, or New York.*

In January, 1862, the Canal Department of New York had $2.5 millions on deposit in banks. Of this amount nearly $0.5 million was unavailable, of which $130,000 was represented as hopeless.†

When the last safety fund charter had expired, in 1866, there remained $129,499 of circulation of the last four banks which had failed still outstanding. After paying the last of the State bonds issued to meet the responsibilities of the fund, there was sufficient in the fund to pay forty per cent. of those notes. So few of them were presented, however, that the remaining sixty per cent. was paid on those which were presented. A final residuum of $13,144 was paid into the State Treasury.‡

The NEW JERSEY Constitution of 1844 required a three-fifths vote in each House for granting or renewing bank charters, which were also to be limited to twenty years' duration.

In 1855, the bank circulation was made a preferred debt, for which, according to each charter, all the assets were pledged; also each stockholder was liable for double his stock, and the directors were individually liable without limit. It was reported, in 1857, that all the banks under the General Banking Law of February 27, 1850, were trying to get special charters. The free bank system had fallen into disfavor in New Jersey, and was being abandoned.

March 7, 1866, the Comptroller reported that thirteen banks, organized under the General Banking Law, were winding up; six banks, having obtained charters, were winding up business under the General Banking Law; seven were being settled by decrees from the Court of Chancery.

PENNSYLVANIA.—A general act for the regulation of banks was adopted April 16, 1850. It was a codification of the old rules of banking without a safety fund or stock deposit. It provided for a Suffolk system, with centers at Philadelphia and Pittsburgh, and contained a very stringent and comprehensive section against the circulation in Pennsylvania of notes for less than $5 issued by anybody outside of that State.

A great number of suits were brought against the Pennsylvania and Pennsylvania and Ohio Railroad Companies, in 1854, for passing foreign bank notes under five dollars. These suits were sustained by private individuals, and penalties to the amount of $30,000 were recovered. The Legislature passed an act to unite the suits into one for each company, on which the penalty would be $500, but the Governor vetoed it. The companies then caused the prosecutors to be indicted for conspiracy, and they were convicted and imprisoned.§

* 12 Banker's Magazine, 919. † 16 Banker's Magazine, 906. ‡ Superintendent, 1867.
§ 9 Banker's Magazine, 487.

The old Bank of Pennsylvania, founded in 1793, failed and went into bankruptcy in August, 1857. Its stock was very largely held by charitable companies and other associations of a like character, by trustees, guardians, and women. Charges of criminal conduct against the officers were, upon a trial, not sustained.

In 1858 the banks of Philadelphia tried to enforce a redemption of country notes; all notes of banks east of the Alleghanies being redeemed at the Farmers and Mechanics' Bank at one-fourth of one per cent. discount. The banks, however, became restive under this arrangement in May, 1859, and it came to an end. In 1861 an attempt was made again to enforce it by law, reviving the old law which had been repealed by the relief legislation of 1857.*

The Philadelphia clearing house was established in February, 1858.

The SOUTH escaped from the crisis of 1857 comparatively unscathed. Business was said to be healthy in that section, and there had been little wild speculation. The worst effects of the panic were not felt there until after January 1, 1858. Virginia was to some extent excluded from this description.†

VIRGINIA.—A great number of banks were chartered in Virginia in 1851, 1852, 1853, and 1856, with a system of stock deposit on the New York plan. March 18, 1856, a law was passed to sell all the State stock in banks. It was re-affirmed April 3, 1858, with the expression of a determination to separate bank and State. An attempt was made to obtain a more uniform currency, April 2, 1858, by a provision that the branches should redeem at the parent bank, and that the independent banks should have a redemption agency at Richmond. The banks were all required to resume on the 1st of May or pay one-half of one per cent. penalty on that day, and the same amount monthly, retrospectively from the 1st of January.

Governor Wise, in 1857, held that, by the experience of that State, it was demonstrated "that an issue of bank notes is a heavy burden to a State without a center of trade," because all currency tends towards such centers. "This makes the issue of bank paper immensely costly to a purely agricultural people."

Another large group of new banks were organized in 1860.

The banks of NORTH CAROLINA appear to have been prosperous about 1850. The Bank of the State paid eight and one-half per cent. dividend in 1849, and the Bank of Cape Fear six per cent.

By a law of 1850–1, each bank with its branches was regarded as a unit against every other bank with its branches. If one makes demands on another, it may be paid in its own obligations or those of any of its parts. Any person presenting a demand for redemption may be required to state whether he is acting on behalf of any bank. If he refuses to answer, he may be refused. Payments under this act are to be made in the notes of

* 13 Banker's Magazine, 314, 996; 18 ditto, 835.

† 13 Banker's Magazine, 639.

the particular branch presenting a claim, so far as the paying bank has them. This law was, however, at once decided unconstitutional so far as it applied to the exchange of notes.*

In the following years a number of small banks were chartered, and the old large banks were re-chartered until 1880 or 1885.

February 16, 1855, an act was passed "to more effectually secure a compliance with the terms of their charters by the banks chartered at the present session of the General Assembly." The president and cashier are required to file a certificate before the bank begins that the capital has been paid in in specie, subject to a fine of from $1,000 to $3,000 for neglect; and of from $1,000 to $3,000, with imprisonment for not more than three months, for certifying falsely.

There was strong rivalry between the Bank of the State and the Bank of Cape Fear. At the session of 1856-7, they both obtained new legislation for the extension of their charters, the State subscribing largely to an increase of capital in each. The former was allowed to issue down to $1; the latter down to $3. It appears, however, that the extension of the Bank of the State was not accomplished. At the session of 1858-9, its liquidation was provided for and a new "Bank of North Carolina" was chartered, on the old plan of the banks of the States. The literary and other funds of the State were to be placed in its capital. It contained no novelty except that, in case of suspension, besides twelve per cent. penalty to the note-holder, it was to pay the State a fine of four per cent. on its circulation at the last return, as long as the suspension lasted. By an act of November 20, 1860, all the banks were relieved of the penalties of suspension, but they must not curtail while suspended.

A "Real Estate Bank" was proposed, in 1866; the capital stock to be not less that $10 millions nor more than $20 millions.†

South Carolina.—In a speech on the bank question by William Gregg, in the Legislature of South Carolina, in December, 1857, we find an interesting description of the methods of banking in the South at that time. If he had a charter in South Carolina for a bank with a capital of half a million, he would first have $2 millions of bank notes printed; a large portion of them fives. "The next move would be to get them in circulation. I would get my neighbors to swap off enough of them for Charleston bills to bring me specie funds.‡ My next object would be to appoint agents in Lexington and Louisville, Ky., to supply horse dealers and get drafts on Charleston, then in Nashville, Memphis, and Huntsville, Tenn., New Orleans, Mobile, Montgomery,—in fact, in all the towns where money is paid for cotton. At these points my bills should be freely put out for drafts on New Orleans; when collected, to be invested in Northern exchange. When the Northern funds matured I would purchase through an agent the notes of all the men in South Carolina that I knew to be good, as well as those of

* 13 Iredell, Law, 75. † 20 Banker's Magazine, 905. ‡ See page 37.

Georgia and other States of similar character. I would shave as deep as possible and get, I suppose, in quiet times from ten per cent. to eighteen per cent.; in tight times, from fifteen per cent. to thirty per cent. During the dull months of the year, when my funds could not be so employed, I would loan to New York bankers on call at seven per cent. and take good stocks for collateral. The shaved notes I would call domestic exchange; my call loans, reserved specie funds. * * * My great object would be to deal in domestic exchange." If a borrower could not draw on New York or Charleston, he would cause him to draw on himself, payable in Columbia, and discount the draft at six per cent., and a half per cent. exchange per month. If a crisis came, he would hold out until he was petitioned to suspend and "relieve the community." "I would then close the vaults and refuse to pay the bank's debts, in order to save the people from bankruptcy and ruin, which I had helped to bring upon them."

The Governor of South Carolina, in 1849, recommended the winding up of the Bank of the State, on general grounds of the impolicy of bank currency and of the union of bank and State. He added:

"I also desire, in this place, to express my settled conviction, that the Bank of the State was founded on a false and pernicious principle; that to grant to the members of a community almost exclusively devoted to rural pursuits unusual facilities for commanding money, is to inflict on them and their posterity unmitigated evil; that the more numerous and difficult the obstacles in the way of receiving bank accommodations by that class the greater their contentment and the more certain their success in their vocation."

The banks which suspended, 1857, had to pay monthly at the rate of five per cent. per annum on their circulation. The one which had to pay the most was the Bank of the State, owned entirely by the State, which thus paid a penalty to itself under its own laws. This the Charleston "Courier" thought was very absurd.*

The Comptroller, in 1860, blamed Alexander Hamilton for introducing the paper system. He thought that the banking system of that State was founded on a much more stable basis than the credit system of the North. Of the latter he said: "As soon as the Southern prop is removed, it is doomed inevitably to topple to the earth." This is what comes of accustoming people to hear all the time what Hezekiah Niles used to call "high pressure" statements.

The Governor was ordered, by the act of September 15, 1868, to take all the assets of the Bank of the State of South Carolina, which had long been closed, and sell them and deposit the proceeds in the treasury. This act was held void, as impairing the obligation of contract. The State was a stockholder and had no right to sieze the assets, which must be held for the creditors.† In Dabney *vs.* the Bank of the State of South Carolina,‡ the Court quoted the report of an investigating committee of the Legislature

* 12 Banker's Magazize, 504. † 1 South Carolina, 63. ‡ 3 South Carolina, 165. (1871.)

in 1868; the bank "really and in fact had no independent existence from the State, but was really subject to and controlled by it. Truly, it had a legal entity for business purposes, but was really nothing more nor less than the State engaging in banking business." It was held that the fire bonds were not a prior lien on the assets of the bank, but that these were distributable for all debts alike. The bank was held not to be liable for the fire loan bonds of the State, issued at the same time, for a part of the rebuilding fund; also, the holders of the notes of the bank held them at their face against the bank, no matter for what price they were bought. In the absence of a special contract, depositors of Confederate currency were held to be entitled only to what it was worth when deposited. "The moneyed relations between the State and the bank might well be said to have identified them." The bank was in liquidation in 1871.*

GEORGIA.—We find laws of 1847 and 1854 to "commute," as it was called—that is, to fund in bonds of not less than $500 each, the small bonds which were issued for the circulation of the Central Bank of Georgia.† This State also, in 1851, was once more legislating against issues by unauthorized persons or corporations, with heavy fines and imprisonment as a penalty. The Bank of the State, in 1850, with a capital of $1.5 millions, had a circulation of $1.8 millions; specie, $489,409; bills of exchange, $1.5 millions; discounts, $1.2 millions. In 1852, the banks were allowed to issue notes under $5 for twenty per cent. of their capital, instead of 5 per cent. as before. This State also multiplied banks between 1853 and 1856. In 1857, the act of 1840 to enforce specie payments was suspended for a year, in spite of the Governor's veto. The banks must resume, however, at the time set, or pay ten per cent. damages and interest for non-redemption. If a note-holder sues the bank, it must redeem all the notes he has or forfeit its charter.

The Governor recommended, in 1859, that a suspension of specie payments by a bank should be made a misdemeanor on the part of the chief officers, and punished by penal servitude for between five and ten years. The Legislature was not prepared to go so far, but a very stringent law was passed without penal features, giving the note-holder summary remedies.

The tax collectors of ALABAMA appear to have been speculating on the depreciation of the currency, for an act was passed February 4, 1846, to prevent them from doing so.

It was enacted March 4, 1848, that no foreign corporation should do discount banking in Alabama, unless it did so by the use of gold and silver or of notes issued under the authority of the State. Notes discounted contrary to this law were to be void. The Southern Bank of Alabama was chartered February 12, 1850; capital, $834,000; two-fifths being reserved for the State, as the Constitution required; but it appears that there was no intention that the State should subscribe. On the same day a free banking law on the New York plan was adopted. The lowest note was set at $5, which

* 3 South Carolina, 401.

† See page 368.

was changed in 1852 to $2. At that time, also, the Southern Bank was authorized to make its circulation thrice its capital. Then also the Northern Bank of Alabama was chartered, like the Southern Bank. In 1854, the lowest denomination of note was set at $1, and the Central Bank of Alabama was chartered on the same plan as the two already existing. In 1856, the Commercial Bank of Alabama, another one on the same plan, was likewise chartered, over a veto. December 19, 1857, the suspension of specie payments by the Central and Commercial Banks was legalized, on condition that they should pay, January 1, 1858, as much as $50,000 of their notes in the State treasury, with interest at eight per cent. from that date; and on April 1st as much as $200,000. After January 1, 1859, they must issue no notes under $5. They must resume February 15, 1858, and by November 15, 1858, they must get and thereafter always keep on hand coin to the amount of one-third of their circulation. If they do not comply with these conditions, they shall forfeit their charters. The Governor shall cause the notes to be presented, and shall institute proceedings as provided by the charter. If they accept these conditions and give bonds to fulfill them, their notes shall be received by the State. The Eastern Bank of Alabama was chartered February 8, 1858, on the plan of the great banks already founded, and on the same day the capital of the Southern Bank was increased $500,000, of which half was a surplus on hand, distributed in a stock dividend. February 8, 1860, all the chartered banks were allowed to issue down to $1. Another large bank, the Bank of Alabama, was founded February 13, 1860, for the stockholders in the South and North Alabama Railroad.

The Northern Bank of Mississippi failed in 1857. It had no circulation in that State, but some in Arkansas and a great deal in Texas. The only bank then remaining in Mississippi was the Bank of Manchester at Yazoo City, which made no reply to the Treasury Department when it was requested to send in a report.*

A proposition for a free banking law in this State, in 1854, obtained no support.†

Louisiana.—An assessment of $6 per share was levied, in 1847, by the liquidator, for seventeen years, on the stock of the Planters' Association, which tax was construed by the Court, in 1883,‡ as a contract on the part of the State that the stockholders should, by paying the same, be discharged of responsibility for the State stock issued for the bank. A law of 1878, levying $40 per share, was therefore declared null. In 1861 provision had been made for the State bonds issued for this bank which fell due that year. There was still $550,400 to be paid, but there were assets, $598,506.§ The last set of bonds were payable in 1866. The stockholders paid all but $13,000 of the $612,000 which the above assessment was expected to pro-

* 14 Banker's Magazine, 6. † 9 ditto. 441. ‡ Consol. Assoc., vs. Lord; 35 Louisiana, 425.
§ Board of Currency, 1861.

duce. The Court said that the State had "squandered" this sum "in riotous living." The expenses of the liquidation had been enormous. The salaries and fees, from June, 1876, to January, 1882, amounted to $58,630. The legislation about this bank was said to cover 65 pages of the statute book.

Early in the fifties there began to be complaint at New Orleans that there was a deficiency of banking facilities, which was crippling the business of the place. This deficiency was attributed to the undue stringency of the existing Constitution and the banking law.* Apparently in response to this complaint, the Citizens' Bank was revived, by law, in 1852, as a bank of discount and deposit. The Governor vetoed the bill on the ground that it was unconstitutional, but it was passed over the veto. Although the existing Constitution was only seven years old a new one was made in this year, as it appears, in a great measure, in order to relax the barriers against the banks. The provision in the new Constitution, however, was by no means lax. "The State shall not subscribe for the stock of, nor make a loan to, nor pledge its faith for, the benefit of any corporation or joint-stock company created or established for banking purposes." It might aid companies for carrying out public works under certain conditions, but "no corporation or individual association, receiving the aid of the State, as herein provided, shall possess banking or discounting privileges." "Corporations with banking or discounting privileges may be either created by special acts, or formed under general law; but the Legislature shall, in both cases, provide for the registry of all bills or notes issued or put in circulation as money; and shall require ample security for the redemption of the same in specie. The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payment by any person, association, or corporation issuing bank notes of any description." In case of the insolvency of any bank, the note-holders were to have preference over all other creditors. By a special section, laws to revive the Citizens' Bank were authorized and such acts already passed were validated.

The scheme of 1852, however, to resuscitate that bank proved impracticable. By another law, April 8, 1853, the holders of the mortgage shares were given a preference in subscribing a new cash capital of $1 million for a bank of discount and deposit.† The amount of State bonds issued for this bank and outstanding, January 1, 1874, was $4,018,626. October 8, 1880, the assets were $1.5 millions, consisting of $1 million in the banking department and $500,000 mortgage stock assets, the latter worth not over $300,000. In 1883 the cash stockholders paid in $350,000 more. The value of the banking department assets, in 1889, was $300,000.‡ In 1874 the charter was extended for twenty-seven years. In 1880 the Legislature authorized the bank to compromise and settle the liability of its stockholders on their mortgages. This act was construed by the courts as in the interest

* 7 Banker's Magazine, 468. † 12 Louisiana, 228. ‡ 43 Louisiana, 742.

of the State, because it would have been ruinous to have enforced the legal obligation against property devastated by the civil war.* This bank has recently undergone a revival and is reported prosperous.

A free banking law was enacted in 1853, a distinguishing feature of which was that each bank must hold, in specie, one-third of its cash liabilities exclusive of the circulation secured by the bonds.

The charter of the Union Bank expired in 1857. It then became a free bank, and is now a national bank. The statement occurs in a memorial of Hope & Co. to the Legislature of Louisiana that the Union Bank paid all the bonds issued to it, and paid to the State besides $1.3 millions from its earnings.

In 1857, the banks of New Orleans were required by law to record daily statements of the "movement" and to return to the Board of Currency weekly averages of the same. Each of the banks revived in 1842 was already required to keep constantly on hand one-third of its cash liabilities in specie. It was now enacted that each president and director should be liable to a fine of $100 for every day that this requirement was not complied with.†

The banks which suspended in that year were the New Orleans, Union, Citizens', and Mechanics and Traders'.‡ "The banks at New Orleans that successfully maintained specie payments are the Bank of Louisiana, the State Bank of Louisiana, the Canal Bank, and the Southern Bank; the latter the only one of the free banks which stood the storm, except the private bank of James Robb. Of the suspended banks the Citizens' Bank, aided by the chartered banks, was first enabled to resume."§

The Louisianians exulted in the results of their banking system as shown in the panic of 1857.‖ There was a great flood of currency pamphlets, etc., after that panic, in which all conceivable views of the ills and remedies were put forward. In most of them it appeared that the course of events at New Orleans had powerfully influenced the opinions of the disputants.

In 1860 the Bank of the State of Louisiana had the largest specie reserve held by any bank in the United States, $4,133,000. The Citizens' came next with $3,232,000.¶

The banks of New Orleans, with one exception, the Southern Bank, suspended, at the request of the Governor, September 16, 1861, one year later than the other banks in the seceding States. The purpose of the suspension was to sustain the credit of the confederate notes. Those banks were the financial mainstay of the Confederacy. As such they fell under the blows of both sides and were reduced to ruin. Their rights and wrongs in that period and the vicissitudes through which they passed are too intricate to be unraveled here. They belong to political, not to financial, history.

The current cash or money of account at New Orleans, in 1863 and 1864,

* Citizens' Bank *vs.* Assessors, U. S. Circ. Ct., E. D. Louisiana. 1893.
† 11 Banker's Magazine, 926.
‡ 12 Banker's Magazine, 505.
§ 12 Banker's Magazine, 584. (Jan., 1858.)
‖ 12 Banker's Magazine, 663.
¶ 15 Banker's Magazine, 750.

consisted of city notes. In some way the city obtained possession of some old notes of the United States Branch Bank at Pensacola, in sheets and unsigned. The city notes were printed on the back of these crosswise, so that when they were cut apart each of the city notes had on its back the halves of two of the old notes, of a different denomination. To supply the deficiency of small change, the city notes were cut in two, so that on one side would be half of a $1 note, and on the other side, crosswise, the half of a $5 or $10 note. The paper was very good and the engraved design of the old notes was good, while that of the city notes was bad. The notes were counterfeited by photography.*

TEXAS came into the Union with a Constitution which provided that "No corporate body shall hereafter be created, renewed, or extended, with banking or discounting privileges. No private corporation shall be created unless the bill creating it shall be passed by two-thirds of both Houses of the Legislature, and two-thirds of the Legislature shall have power to revoke and repeal all private corporations by making compensation for the franchise, and the State shall not be part owner of the stock or property belonging to any corporation. The Legislature shall prohibit by law individuals from issuing bills, checks, promissory notes, or other paper to circulate as money."

The Commercial and Agricultural Bank of Galveston possessed an old charter, obtained in 1835, from the State of Coahuila and Texas. It was reorganized December 30, 1847, as the Bank of Agriculture and Commerce. The Attorney-General commenced proceedings against it to recover the penalties for an unauthorized note issue, but the suit failed on a demurrer.† It went into liquidation in 1858.

TENNESSEE.—The Farmers and Merchants' Bank of Memphis suspended and was enjoined, May 24, 1847. It presented a long memorial to the Governor, setting forth that a new board of directors, by endeavoring to make much needed reforms, had provoked hostility and persecution, which had forced it to suspend. It was required to resume before the next meeting of the Legislature. It went into liquidation.

The Bank of the State of Tennessee was authorized, February 2, 1846, to reduce its capital $200,000. February 3, 1848, it was allowed to issue notes down to $1. February 9, 1850, it was authorized to sell the stock owned by the State in the Union Bank and the Planters' Bank and held by it, and to buy State stocks with the proceeds. This transaction, however, did not take place. Year by year we find the existence of this bank put in question. The public men of the State doubted its usefulness, and even its officers either recommended its discontinuance, or gave it only a half-hearted defense.‡ Still it was continued, apparently chiefly for the reason that there was a prejudice in its favor as, in some way, the poor man's friend.

The president and directors, in their report of 1856, recommended that the bank be put in liquidation, saying that it seemed to have been injudicious

* 17 Banker's Magazine, 1004. † State *versus* Williams, 8 Texas, 255. (1852.) ‡ See pages 327, 398.

to charter it after the State had taken stock in the Union Bank and the Planters' Bank. The Legislature, however, preferred the contrary course and transferred the State stock in the two latter banks to the Bank of the State, with authority to sell, and after the payment of the five per cent. bonds of the State, falling due in 1858, to apply the proceeds to the increase of its capital. The president and directors adhered, in 1857, to their former opinion that the State might better dissolve all connections with banks or internal improvement companies as soon as possible, although at present the aid of some banking institution seemed indispensable to sustain the credit of the State. They think that the Bank of the State is best adapted to this function if put on an equality with the stock banks of the State. They complain that the authority of the mother bank over the branches consists mainly in the annual election of their directors and in the preparation of currency for circulation. The officers have been frequently changed on account of political changes in the State. The suspended debt in 1855 was $700,000. It was then placed under the control of the principal bank. "The examination since made into the condition of the branches shows that the principal losses arose from that feature of the charter requiring loans to be made to the different counties in proportion to their voters." If the proposed changes could be made in the charter, the bank might do all the banking business of the State and win all the profits of it for the State. It now has the exclusive right to issue notes under $5, but they think this might better be abrogated.

The tables which are added show that the annual profits of this bank in the early fifties averaged nearly a quarter of a million. The annual requirements addressed to it by the State amounted, by 1855, to $275,000, which was 8.6 per cent. on the capital it then had.

There was great jealousy and hostility at this time between the stock banks and the Bank of the State.

Governor Harris, in 1858, stated in his message that he had made a computation of simple interest on each of the items of the cash capital of the Bank of the State since it was paid in, and had compared this with the profits of the bank; the result being that it does not pay to borrow at six per cent., payable semi-annually at New York, with exchange at one per cent., in order to go into the business of banking.

In the preamble of certain resolutions adopted November 21, 1859, it is stated that "the question of what shall be done in relation to the banks is one of vital importance to all the great interests of the State; is the great question of the present Legislature," etc.

The Bank of the State seems to have been reconstructed at this time. Its annual report for 1859 speaks of it as having gone into operation July 1, 1859. The old suspended debt is still nearly $100,000. The capital consists of $1 million in State bonds, $850,000 in school fund, $932,000 of surplus revenue, $664,000 of Union Bank stock, $232,000 of Planters' Bank stock. The stock of the two banks has been sold for cash and the capital has been

redistributed between the branches in order to be more profitably employed. The Planters' Bank and Union Bank resumed July 1, 1858, but the Bank of the State would not, which exposed it to abuse, and the other banks refused to receive its notes; so that it was compelled to follow suit. Nevertheless rumors were afloat injurious to its credit and the other two banks made very heavy demands on it for redemption. The president and directors also complain that the bank and its branches can only pay out at their counters their own notes, but are compelled to receive in payment of debts the notes of each other. The mother bank receives the notes of its branches, but cannot pay them out and cannot recover its own. Its business has therefore been almost suspended for one month. The great trouble is that the mother bank has by law no control over its branches as respects their business. Notes under five dollars are being withdrawn as fast as they come in. After the 1st of January, 1860, no bank is to issue anything under ten, but it is believed that the small notes of the neighboring States will come in. The capital of the Bank of Tennessee, after twenty years' existence, has yielded to the State a net profit of $4.7 millions. The bank had ten branches.

A general law regulating banks was passed February 6, 1860. No notes were to be issued which were not redeemable where they were issued or paid out, and none under five dollars. All the capital was to be paid in in coin and a coin reserve of one-fourth of the circulation was to be maintained. No charter was to last for more than fifteen years. This law was said to dismember the Bank of the State, on account of the provision that no notes might be issued which were not redeemable where issued. The Planters' Bank and the Union Bank refused to obey the law and it proved ineffective.

The Bank of the State removed all its assets to the South early in the civil war. They never could be recovered. It was wound up by order of the Legislature in 1866. The notes were redeemed but no other debts were paid.

In KENTUCKY, at the session of 1860-1, a plan was proposed for a "Sinking Fund Bank," very nearly on the plan of the old Bank of the Commonwealth. Among other peculiar provisions was one that it should keep an amount of specie equal to one-third of its circulation; but that, if it failed to do so, it might suspend.*

OHIO.—A bank of the State of Ohio was founded on a new plan, February 24, 1845. Any number of persons, not less than five, might engage in banking. A number of companies are mentioned as already existing, with an aggregate capital of $6,150,000, which are to be combined in it. The State is divided into twelve districts, with a specified number of banks and amount of capital in each. Five Bank Commissioners are named for one year, after which the Auditor, Treasurer and Secretary of State are

* 15 Banker's Magazine, 750.

to constitute the board of Bank Commissioners. Each company is to file a certificate with a statement of its name, capital, etc., and whether it proposes to be independent or a branch of the State Bank. The capital of the independent banks is to range between $50,000 and $500,000, and of branches between $100,000 and $500,000. The certificates of the funded debt of the United States or of Ohio are not to be counted in the capital, which must be paid up in specie, all the details of organization and payment of the capital being inspected by the Commissioners. When seven companies shall have proposed to become branches of the Bank of the State they shall each elect a member of the Board of Control of said bank. That Board shall elect the president. The seat of the Board of Control is to be at Columbus. They are to decide on the amount of circulation of each branch; to procure and furnish it; and to establish rules for settling the balances between the branches. They have visitorial power and their salaries and expenses are to be paid by the branches in the ratio of their capital, as also the expenses of preparing the notes. The Board of Control is made a body corporate until 1866. Each member of that Board is to have one vote, and one more for every $50,000 in circulation which his branch has. The notes issued by any branch must be paid by it in specie. Those branches which have not over $100,000 capital are not to issue in excess of twice the capital, and larger banks a smaller proportion. The Board of Control is to replace worn and defaced notes. Each branch is to give to the Board of Control, as a safety fund, ten per cent. of its circulation in money, or stocks of Ohio, or of the United States. This fund is to be invested in mortgages, and the interest on it is to go to the depositing branches. All the stockholders in any branch are to owe to it, in the aggregate, not more than one-third of its capital. Any branch which does not redeem its notes is to be considered insolvent, and the Board of Control shall, upon examination, appoint a receiver and put the money in some solvent branch, with which to pay the notes, all the solvent branches contributing to this expense. Any noteholder may, through the courts, compel the Board of Control to take this action against a delinquent branch. Each independent bank is to deposit with the State Treasurer bonds of the State, or of the United States, to the amount of its capital, and he is to give to it its circulating notes to an amount not exceeding the value of the bonds, nor three times the paid-up capital. He is to have the custody of the plates and paper, and to replace worn out notes, the cost being assessed on the banks, and each bank is to have the interest on its bonds as long as it pays specie; but if, in New York for four weeks, the bonds fall below the value at which they were deposited, the interest is to be retained to make good the deficiency. Any insolvent bank is to be wound up by a receiver and the securities sold to pay the notes. All the stockholders of a bank may not be liable to it, in the aggregate, for more than three-fifths of its capital. The Bank Commissioners are to appoint an agent annually to examine the banks. No bank may lend on its own stock. The independent banks are to last until 1866. They are

to issue ones, twos, threes, fives, and the decimal denominations only, the percentage of each denomination being prescribed; and they are to issue no other kind of note. Each of them and the branches of the Bank of the State are to take each others' notes at par; each is to keep at least thirty per cent. of its circulation in specie; no bank is to hypothecate its circulation to get bonds to deposit for circulation. Six per cent. of the profits are to be paid semi-annually to the State as a tax, the interest on the bonds deposited not to count in the profits; no bank to circulate any notes which are not at par, nor any notes of any bank outside of the State for less than $5. Specified banks may come under this law and retire their old circulation.

The Ohio Life and Trust Company was allowed, by an act of February 11, 1846, to become either an independent bank or a branch of the Bank of the State, if it so desired, by setting off a banking capital in specie of not less than $300,000 nor more than $500,000.

In order to enforce the authority of the Board of Control of the Bank of the State, it was enacted, February 24, 1848, that any Judge of the Supreme Court should enjoin any branch which neglected or refused to obey the Board of Control, and that the Board should appoint a receiver for it.

In 1848, there were thirty-seven branches of the Bank of the State of Ohio and seven old banks. The Ohio Life and Trust Company had a total capital of $2 millions, but its banking capital was only $611,626, being the amount of permanent deposits or loans which it held. There were eleven independent banks. The Bank of the State, in the aggregate, had capital, $3.3 millions; circulation, $5.4 millions; deposits, $2.2 millions; specie, $1.9 millions; the safety fund was $621,339, besides $77,457 for the same to the credit of the Board of Control. The assets exceeded the liabilities to the public $3.4 millions.

The Constitution of 1851 provided that "No act of the General Assembly, authorizing associations with banking powers, shall take effect, until it shall be submitted to the people, at the general election next succeeding the passage thereof, and be approved by a majority of all the electors voting at such election."

The Legislature once more took in hand the whole system of banking, and enacted a comprehensive free banking law, March 21, 1851. The Auditor was to prepare the notes and deliver them, on deposit of Ohio or United States bonds for an equal amount, not above the market value or par value, and not in excess of three times the paid-up capital; lowest notes, $1; all banks under this law to receive each others' notes and to keep thirty per cent. of the circulation in coin; the Auditor to sell the bonds whenever the bank fails to redeem and he, with the Secretary of State, to appoint a special agent for examination, on whose report they might appoint a receiver; all the stockholders of a bank never to owe it in the aggregate over two-fifths of its capital; fifteen per cent. for non-redemption. This made four systems of banks in Ohio: those chartered before 1845, which in 1854 had $1.55 millions capital; the State Bank and branches, with $4.1

millions capital at that time; the independent banks, with $720,000 capital, and the free banks, with $695,000 capital. During these years repeated laws were passed to try to stop the circulation of out-of-State notes.

Taxes on banks were increased by laws of March 21, 1851, and April 13, 1852, by way of a war on banks. The banks succeeded in breaking down the law in the courts.*

The banks of this State received their first shock in 1854, when it appears that, as a result of piling one system upon another, they had produced an excessive inflation and a commercial crisis.†

A new act for the incorporation of a Bank of Ohio, with branches, was passed April 14, 1857. After five branches should be organized, each of them was to appoint one delegate, to constitute a Directory of the bank, which should procure and furnish to the branches their circulating notes. Ten per cent. on the circulation was to be paid over to the Directory in money or in bonds of the United States or of Ohio, to constitute a safety fund; the money part to be invested in bonds or mortgages. On the first $100,000 of capital notes might be issued only for double the amount; on the second $100,000, for 175 per cent. of the amount; and so on; lowest note, $1; non-redemption on the part of any branch constitutes insolvency, and thereupon its assets vest in the Bank of Ohio, and a receiver is to be appointed; all the branches are to contribute to pay the notes of an insolvent branch. The chief Directory is to get an injunction against any disobedient branch; the bank is to have offices at Cleveland, Cincinnati, and New York, and is to act at New York as the transfer agent of the State. At least half of the capital of each branch is to be in specie or its equivalent. Any existing bank or branch of the Bank of the State may come into this one, and the old corporation is dissolved. Thirty per cent. of the circulation is to be kept in specie funds, of which at least half must be real specie; the balance in New York or other eastern cities may be counted as cash. Bank Commissioners are appointed to set this bank in operation.

September 30, 1857, the Board of Control of the Bank of the State of Ohio resolved that its branches could and would maintain specie payments, and they did so.‡ There was great complaint all through this period of the anti-bank legislation in this State. It appears to be, thanks to that legislation, that Ohio was saved from the banking distress of the States further west.

Ohio adopted an independent treasury system in 1858. Taxes were to be collected in coin or notes of those specie paying banks of Ohio which issued no notes under fives—"a virtual exclusion of Ohio bank paper as well as all other." After July 4, 1860, no notes under ten dollars were to be received; after July 4, 1865, none under twenty dollars. The State Bank would cease in 1866. The free banks would cease in 1872. After that nothing but coin was to be used by the State.§

* 16 Howard, 369. † See page 444. ‡ 12 Banker's Magazine, 427. § 12 Banker's Magazine, 901.

In 1858, the Bank of the Ohio Valley was planned, to establish a modified Suffolk system of exchange at Cincinnati for the banks of that entire region. The following description of its purpose is taken from a letter of the president: "In exchange between the seaboard cities and the West, speculation had so controlled the rate of premium as to become a serious evil to the banks of Ohio, in common with those of Indiana and Kentucky. In order to exercise some control over those exchanges, a few gentlemen connected with the banks of Ohio, under the free banking law of 1851, organized this bank and made for it, so acquiring corporate form, a contract with the State Bank of Ohio, by which (in brief) the branches of said bank were to deposit with this bank an amount equal to four per cent. upon their authorized circulation, free of exchange interest; conditioned that this bank should sell the exchange upon eastern cities it could create, at, or a less rate than, one-half per cent. premium."

An example of a bogus bank is mentioned in Ohio, in 1859. It had paid $165 for a plate, and a quarter of a cent on the dollar for printing, but had given $1,900 to the publisher of a bank note detector to "quote the money right."* They had not wasted any of their "capital." They had expended it where the return on it would be greatest. This is not the only evidence we meet with that the high function of the "Detector" under this system was used for revenue.

MICHIGAN.—In 1848, the only bank reported was the Michigan State Bank, with a circulation of $216,526; coin, $61,965; total cash items, $151,362.

In the Constitution of 1850, it was provided that no banking law should have effect until it had been submitted to a popular vote and approved by a majority. Stockholders of every banking corporation issuing circulating notes were made individually liable for debts contracted while they were such. All bank notes were to be registered and stock security deposited for them. Note holders were to be first preferred creditors. No law might ever be passed authorizing or sanctioning the suspension of specie payments. A two-thirds vote of both Houses was required for altering or amending any act of incorporation previously granted, and no such act might be renewed or extended. In 1860, the individual liability of stockholders was made proportionate to their shares in the capital. By an amendment adopted in 1862, no corporations might be created by special act. General laws for creating them might be amended, altered, or repealed, "but the Legislature may, by a vote of two-thirds of the members elected to each House, create a single bank with branches." No general banking law was to have effect until it had been approved by a popular vote.

INDIANA.—Four new branches of the Bank of the State were established, January 10, 1849, with a capital of $160,000 each, of which the State was to subscribe, in each case, not less than $60,000.

By the Constitution of 1851, the Legislature was forbidden to establish

* 14 Banker's Magazine, 153.

any bank, save under a general law, which, if passed, must provide for registry of notes by a State officer, with ample security, in the custody of a State officer; but a bank with branches and without this security might be established, provided that the branches should all be mutually responsible, the stockholders individually liable to the extent of double their shares, the notes redeemable in gold and silver, the note-holders to be the first preferred creditors, and such bank to last only twenty years. No law might ever sanction the suspension of specie payments. The State should never be a stockholder in any bank after the expiration of the present State Bank, nor in any other corporation, nor lend its credit to anybody.

A general banking law on the New York model was passed May 28, 1852. Under it wild-cat banking was developed to an extent then unknown. It was contemporaneous with the inflation in Ohio.* "The speculator comes to Indianapolis," said the Governor, 1852, "with a bundle of bank notes in one hand and his stock in the other. In twenty-four hours he is on his way to some distant part of the Union to circulate what he calls a legal currency, authorized by the Legislature of the State of Indiana. He has nominally located his bank in some distant part of the State, difficult of access, where he knows that no banking facilities are required, and intends that his notes shall go into the hands of persons who will have no means of demanding their redemption."

In 1854 the Ohio valley was the scene of a bank crisis at the time of the crisis in the stock market at New York.† The Auditor stated, in his report, that a heavy run commenced in May upon the State stock banks for coin. Nothing but coin would be taken. This continued for sixty days before any of the banks suspended. "A crisis then showed itself in the whole monetary operations of the western country." The notes of many banks in Ohio fell to a discount and the banks suspended. "Chicago and Illinois generally were next the theater of the effects of this combined demand for coin; also resulting in the failure of several banking houses, and a depreciation of their notes. The fact that the notes of the Indiana banks, under the general law, were secured by interest-paying bonds of the several States of the Union, and in many instances by the very best securities that any State issues, seemed to be of no value in the estimate put upon their notes by the public. A general depreciation ensued." At the same time, the deposited stocks declined in value on the New York market, so that if they had been forced to sale by the Bank Department, to redeem the notes of banks which had failed, there would have been a deficiency. It seemed to him that if notes secured by the best stocks could not command confidence, it was doubtful whether any system of paper currency would be regarded with public favor. On this occasion, the old-fashioned banks, with no securities in deposit, were so little upheld by public opinion, in Ohio and elsewhere, that their notes became almost valueless. He proposed a number of new

* See page 442.

† See page 444.

rules for banking, the purport of which was generally that the banks should have a well-known and accessible domicile, and be open in banking hours of every business day.*

Before 1857, 94 banks had been organized under the general law, with a nominal capital of more than $35 millions; and circulating notes had been issued to them for more than $9 millions. Fifty-one of them had failed, and their notes were selling in Cincinnati at from five to eighty-five discount. These banks had been built one upon another, the notes of one being used to buy the stocks with which to organize another. The operation was called "shingling."† McCulloch‡ tells of a case of a man who bought bonds with notes, deposited the bonds for circulation; with the notes bought more bonds, and repeated the process. With $10,000 capital, he got out, before 1857, $600,000 of circulation; he did no banking, but lived on the interest of his bonds.

The experience of 1854 was considered to call for a revision of the general banking law. The whole of the act of 1852 was quoted in a new act, of March 3, 1855, with certain new provisions, in effect remodeling the system. One hundred dollars in notes were to be issued only against $110 in stocks deposited. Every bank was to have a banking house, sign, etc., and do business from ten until three daily on all business days. The banks which have organized under the law of 1852 are to have until March 1, 1857, to wind up or comply with this act. Every bank under this law must have an agent at Indianapolis to redeem its notes in specie, or in exchange on New York; the former at one per cent. discount and the latter at the ruling rate.

The charter of the State Bank of Indiana was to expire in 1857. Its report of October 31, 1854, showed a suspended debt of $1.8 millions, a surplus fund of $1.1 millions, a circulation of $2.8 millions, specie $1.3 millions. During the previous year it had redeemed over $2.5 millions of circulation. The Auditor thought that the State should come to a settlement with the bank at once, whereby it would release itself from liability for the bonds issued and possibly realize a profit.

Indiana issued bonds on account of the first Bank of the State for $1,390,000, for which she obtained the net sum of $1,416,750. Of this, $880,000 were paid for stock in the bank, and $255,009 for loans to stockholders who could not pay their own subscriptions. The remainder, $281,741, constituted a sinking fund. Up to the first of November, 1858, the net gains of the bank and sinking fund were $2,356,659; to which the addition might be made of interest on a part of the fund which had been

* Some forces which were brought to bear on "banking" ought not to be overlooked. A Lexington (Ky.,) banker was hung in effigy at Versailles, in 1855, for sending home bank notes issued by the bank in that place for redemption. (10 Banker's Magazine, 41.) At Springfield, Ohio, in 1857, the citizens put a brush and tar bucket at the door of the local bank in order to frighten off any brokers coming to demand specie. (12 Banker's Magazine, 587.) A man who presented notes for redemption to a country branch of the Bank of Missouri, in 1859, was threatened with lynching by a mob who collected. (14 Banker's Magazine, 323.)

† 12 Banker's Magazine, 165.

‡ Men and Measures, 126.

loaned to the State.* In comparison with the failure and waste attendant upon the financial enterprises of this character which had been attempted in other States, this case stands out as a subject of especial interest.

McCulloch, in defending the second Bank of the State, had occasion to state, in 1857, what he thought had been the causes of the success of this bank. He attributed it to "the peculiar features of its charter and the prudence of its managers." "The State was powerless in the Board of Control and in the branch Boards. * * * The success of the State Bank is unquestionably owing to the facts that the State Board had full control of the business of the branches; that the branches, although independent in their profits, were mutually responsible for the circulation and deposits of each other, and that the men who managed them had both character and money to lose by mal-administration of their affairs."† In the case of a bank, at least, it is emphatically true that "what is best administered is best."

On the same day on which the above-mentioned revision of the general banking law was passed, a new Bank of the State was chartered for twenty years, with very nearly the same features as the old one,‡ over a veto. There was great difficulty in raising the capital of the new bank, and it seems very doubtful if it could have been put in operation; but the plan was adopted of selling the new charter to the old bank, which thus went on as before. Hugh McCulloch was made president. He had been cashier of the Fort Wayne branch. There was a great deal of complaint by the anti-bank men that the Legislature had been outwitted, and the Constitution violated, by a trick, and there were even charges of corruption. McCulloch answered that the purchasers of the charter were innocent of any such proceedings. He predicted the panic of 1857, in April of that year.§ Reviewing his administration of the bank, in his book, he says that he was obliged to coerce the directors of the branches, and to prevent them from borrowing of the bank; and he adds, in regard to the numerous bank failures in the United States, that no bank ever failed there, "the capital of which was a cash reality and whose managers were not thieves, or the borrowers of its money." This statement does not say as much as it might at first seem to say, for we have seen that the almost universal diseases of the banks had been that they had not a cash capital, and that the directors did borrow of them or plunder them. The wonder is that a great many more such did not go into bankruptcy. McCulloch's administration of this bank has become justly famous. In view of what we have seen about the Banks of the States, any man deserved high honor who could pilot such an institution successfully through. The plan of this bank and that of the Bank of the State of Ohio were evidently attempts to co-ordinate and organize the petty banks into a unity where they could be regulated and restrained. It is plain that no such system could work unless there was firm discipline, unflinching integrity, and fearlessness at the head.

* Commissioners of the Sinking Fund, 1859. † 11 Banker's Magazine, 928. ‡ See page 255.
§ 11 Banker's Magazine, 930.

This bank did not suspend in 1857. Its notes bore a premium over all the western notes, and were at five per cent. above those of the State Bank of Ohio in Cincinnati.* McCulloch tells us that at that time "there was a tacit understanding between the branches and their customers, that deposits of bank notes were payable in bank notes." There was a run for gold on the Bank of the State as long as there was a premium on sending gold from Cincinnati to New York. After three months the bank felt no further strain of the crisis, and was strengthened by going through it.† It should be noticed that the revulsion of 1854 was the real crisis in the Ohio valley, and not that of 1857. In the latter year that region was rather in the subdued and chastened condition which follows a crisis.

A convention of representatives of the free banks was held in April, 1860, to concert measures for redemption at Cincinnati. It was found that the interests of banks in different parts of the State were so different, that no agreement could be made. Their only common interest was antagonism to the Bank of the State, and the only common measures on which they could agree were those of war on that bank for returning their notes persistently.‡

The Bank of the State published a statement December 31, 1861: "Under no conceivable circumstances will the Bank of the State of Indiana suspend specie payments. We have frequently given to the people of the State the pledge that our notes should always be convertible into coin. This pledge we shall in good faith fulfill."§

In January, 1862, the branches of the State Bank were warned by the Board of Control not to let hope of profit lead them to expand their discounts on an irredeemable currency. Coin was not to be allowed to fall for more than two days below fifty per cent. of circulation, and all productive investments were not to be increased beyond 175 per cent. of capital. The stock of coin was then $4.3 millions and the circulation $5.8 millions. The bank did not suspend until after the legal tender act was passed.

McCulloch obtained a decision from the Supreme Court of Indiana that it would be lawful for that bank to use legal tender notes in the redemption of its notes, even under the stringent provisions of its charter. Thereupon he put out the circulation again, but proceeded to hoard gold until, in 1863, the gold stock equaled the capital.

The branches of the Bank of the State were authorized, by act of January 19, 1865, to break up their relations with that bank and close up the business, so that they might go over into the national system if they chose. The president of the bank, in his report of January, 1865, said: "There is no disposition on the part of those who control it to abandon the charter to embark in a new and as yet unproved system."‖ The branches made the change one by one during 1865.

The ILLINOIS Constitution of 1848 provided that the Legislature should

* McCulloch, 133. † McCulloch, 135. ‡ 14 Banker's Magazine 913.
§ 16 Banker's Magazine, 650. ‖ 19 Banker's Magazine, 824; 883.

have "no power to authorize lotteries for any purpose, nor to revive or extend the charter of the State Bank or the charter of any other bank heretofore existing in this State." The credit of the State might not be loaned to anybody; furthermore "no State bank shall hereafter be created, nor shall the State own or be liable for any stock in any corporation or joint stock association for banking purposes, to be hereafter created. The stockholders in every corporation or joint stock association for banking purposes issuing bank notes, or any kind of paper credit to circulate as money, shall be individually responsible to the amount of their respective share or shares of stock in any such corporation or association for all its debts and liabilities of every kind." No act to grant banking powers should go into effect until after it had been approved by a majority of the votes at a general election.

Illinois adopted a general banking law on the New York model, over a veto, February 15, 1851. It was put to a popular vote and approved. It was amended, perfected, and extended February 14, 1857. A case arose in 1859, in which the Reapers' Bank, being called on to redeem two packages of notes of $500 each, refused to do it for the total sum, but spent more than a banking day on each package, redeeming only a part of it, one note at a time, in dimes and half dimes. The unredeemed notes were protested and sent to the Auditor for redemption out of the deposited bonds. The bank sought an injunction, but the Court refused it in terms which characterized the proceedings of the bank as improper, and unwarranted, and not a compliance with its lawful duty.*

From 1859 to 1861 the bank note currency of this State fell into the utmost confusion and discredit, in common with the rest of the currency of the northern Mississippi valley. Apparently from a belief that the Bank of the State of Indiana had rescued that State from the similar condition into which it had fallen in the early fifties, a charter for the Union Bank of Illinois was passed February 20, 1861. It was a disguised Bank of the State which the Constitution forbade, and departed from the Indiana model in several very important respects, and in a questionable way. The law was rejected at the referendum in November, by a large majority.

In June, 1861, the Bank Commissioners made a call on twenty-three banks for additional securities, leaving only seventeen which were not under call. The "stump tail" currency, as it was called, was then disappearing; specie was coming into use, and bank notes were treated as merchandise. The Wisconsin paper was treated in the same way.

In August all new banks were required to redeem their circulation in Chicago or Springfield at not more than three-fourths of one per cent. discount, and after January 1st at not more than one-half of one per cent. The old banks were allowed to adopt the plan of central redemption and to increase their circulation by the deposit of Illinois bonds at par without regard to their market value.

* 24 Illinois, 433. (1860).

In September the Illinois banks were not able to maintain their circulation. The Chicago "Times" said: "We believe the fiat has gone forth, and that all banks organized under the present banking law are worse than useless, either to the public or the owners."

In September and October, under the influence of the political disturbances, a very thorough reform of the currency of the Northwest was accomplished.*

The Illinois Constitutional Convention of 1862 adopted an article which forbade the creation of any banking corporation for any of the functions of banking. Notes under $10 were forbidden at once; those under $20 after 1864; and all bank-notes after 1866. Upon the submission of this Constitution to a popular vote, the banking article was rejected by about four thousand majority; and the whole Constitution by about six thousand.

In July, 1862, the Auditor of Illinois advertised the rates at which he would redeem the notes of ninety-three free banks. Five were at par, the others at from 49 to 95 cents—most of them at from 50 to 60 cents on the dollar.†

MISSOURI.—A general banking law was passed at the session of 1856-7; probably over a veto, since it is not dated. There might be no bank with less than $1 million capital, and no notes under $5; if any bank suspended for ten days, its charter was to expire; one-tenth of the capital must be paid in in specie before beginning; every bank, within one year of its beginning, must invest ten per cent. of its capital in bonds of the State, and also ten per cent. of any capital subsequently paid in; it must also save two per cent. of its net gains every year and invest them in State bonds, as a contingent fund. It might not loan on its own stock, nor employ more than five-eighths of its capital in exchange dealings; it must pay a bonus or tax of one per cent. of its capital and issue not more than three times the specie on hand. Every bank of $1 million capital must have two branches. A Bank Commissioner was to inspect the capital of every new bank, and to cause the notes to be printed and delivered to each bank to the lawful amount. There was no provision for the deposit of bond security. Nine banks were organized under the act, and it was provided that the Bank of the State might come in as the tenth. This law was suspended November 5, 1857, until November 1, 1858, on behalf of the Bank of Missouri and the others which had suspended specie payments. Debtors to the banks were to have an extension, on the payment of twenty per cent., giving security. The suspended bank paper might circulate, but the notes issued after the passage of this act must have a distinguishing mark.

Missouri currency, which had, through all the first half of the century, been amongst the very best in the Union, became, in 1859, one of the worst. It became uncurrent in Indiana, Kentucky, and Ohio, except Cincinnati.‡ The State was busy during this decade with "public improvements,"

* 16 Banker's Magazine, 489. † 17 Banker's Magazine, 396. ‡ 14 Banker's Magazine, 152.

issuing bonds in aid of railroads. As the latter did not pay the interest on the bonds the State finances became disordered. The presence of these bonds in the bank guarantee funds of several States also became a cause of trouble to them.

In Missouri the term "currency" was used for all kinds of uncurrent bank paper. The Bank Commissioner said, in 1860, "The truth of the whole matter is that, in a practical sense, our banks cannot justly lay claim to the name of specie-paying banks." He found it very mortifying that Missouri currency was one per cent. below that of Indiana, Ohio, Kentucky, Tennessee and Louisiana. We are warranted in the conclusion that there was no "convertible" currency in the whole Mississippi valley, north of Arkansas and the Gulf States, even when "convertible" currency is understood with all the latitude customary in those days in the United States.*

The Supreme Court of this State rendered a decision, in 1863, in support of the action of a bank which, when called on to redeem several thousand dollars of its notes, took them one at a time, the lowest being for ten dollars, and redeemed each one by giving five dollars in fractional coin of the coinage of 1853, and gold for the rest.†

WISCONSIN.—Some citizens of Milwaukee presented to Congress, January 31, 1837, a remonstrance against the charters passed by the Territorial Legislature for the Bank of Milwaukee, the Miners' Bank of Dubuque, and the Bank of Mineral Point. The congressional committee reported favorably on the three, expressing the hope that the Territorial Legislature would not find it necessary to make any more for a long time. An act was accordingly passed ratifying these three charters, but with important modifications, which Congress thus imposed. An act of the Legislature of the same Territory creating a State Bank of Wisconsin at Prairie du Chien was disallowed, June 12, 1838.

In the summer of 1838, it was reported from a Wisconsin newspaper that wild-cat money had overrun the Territory, driving out all other. In 1840, the only bank in the Territory of Wisconsin was that of Mineral Point, with $100,000 capital; $90,000 circulation; specie and specie funds, $48,492. At a later date, however, it was reported that there had been, until 1841, a Bank of Wisconsin at Green Bay.‡ In 1839, the Wisconsin Marine and Fire Insurance Company of Milwaukee was chartered by the Territorial Legislature. It had authority also to receive money on deposit and to loan the same; but banking privileges were expressly excluded. If it received bank notes on deposit and loaned them, it was to endorse them by its president, and redeem them in specie, in case the issuing bank should fail. This charter was obtained by George Smith, who issued certificates of deposit in set denominations, for small amounts. The authorized capital of the company was $500,000, but it started with $8,104 paid up. The issue was continued until 1852. It became famous all over the Northwest as "George Smith's

* 14 Banker's Magazine, 810. † 2 Whittlesey, 407. ‡ Treasury Report, August 10, 1848.

money," and reached a maximum amount of $1.5 millions. The certificates were redeemed in specie at Milwaukee, and there were agencies at Chicago, Detroit, Buffalo, and St. Louis, at which the notes were redeemed with drafts on New York. The notes were unflinchingly redeemed. In 1846 the Legislature repealed the charter of the Insurance Company, but did not instruct the Attorney-General to institute proceedings for forfeiture. The company was re-organized under the free banking law of Wisconsin. Its original founders having either died or left it, it failed a few years ago.*

The Secretary of the Territory reported to the Secretary of the Treasury in 1848, in regard to Smith's money: "It constitutes, in a great measure, the paper circulation of the eastern portion of the Territory, and indeed of northern Illinois."† This currency was often denounced, and the bankers of Chicago appear to have made constant war on it, but we get the impression that it was the best currency there was in the Northwest before the civil war.

In the Constitution of 1848, the Legislature was forbidden to create any bank in any way, unless the question of bank or no bank should have been decided at a general election in favor of banks. Then it might create banks by general or special law, but every such law must be ratified by a majority at a general election, before it should be valid.

A free banking law was passed in 1853. Under it the deposit of first mortgage bonds, on a first-class railroad, at not over 80, and not more than $8,000 per mile, as a security for circulation, was allowed. In this State also the possibilities of mischief in this free banking system were amply manifested. It would be a very great mistake to suppose that that system, where it had been tried before the war, had inspired confidence. In the majority of cases the contrary was the case.

Out of $5.3 millions on deposit in the Banking Department, in 1858, $2.3 millions were Missouri bonds, which were losing credit on account of the large issues.

In August, 1858, a number of the private bankers of Chicago threw out the notes of twenty-seven Wisconsin banks because the currency had been greatly increased by banks, "located at inaccessible points, having no capital, doing no banking business, providing no means whatever for the redemption of their issues, and in many instances having not even an office or known place of redemption."‡ This led to the formation of an Association of forty-five Wisconsin banks to enforce redemption on a number of their comrades, specified by name, which were considered "wild."

On account of the depreciation of stocks the Banking Department found it necessary to call on the banks for more stocks or a reduction of circulation, October 15, 1860. The Legislature, however, in February recommended the Comptroller to refrain from such demand, in accordance with existing law, until it could act. The Department held more than $3 millions

* White; An Elastic Currency. † Treas. Rep. August 10, 1848. ‡ 13 Banker's Magazine, 255.

in Southern bonds, and it was feared that if they were thrown on the market a panic would be produced. In April, the Legislature recommended the Comptroller to proceed with the calls. Two per cent. additional security was called for. Thirteen banks failed or refused to respond. When the Comptroller proceeded with the steps prescribed by law for winding them up and selling their securities, he was arrested by an injunction. The interposition of the Legislature, "instead of eliciting the gratitude of these parties, served them as a handle to obtain an injunction, and as a means to embarrass the lawful action of the Department." They wanted to gain time to buy in their depreciated currency, and with it to release their bonds. June 3d, an additional call of eight per cent. was made, on account of the continued decline of Southern bonds. Fifty-eight banks did not obey the call; forty did not even acknowledge the receipt of the notice. An agent sent out to serve notices could find, in many cases, no banking-house, or no competent officer to receive service. In September the stocks of nineteen banks were advertised for sale. In October, another call of three per cent. was issued on Illinois, Michigan, Ohio, California, and Missouri bonds.

In 1863, twenty-two Wisconsin banks were closing business, whose notes were being redeemed at from 55 to 80 cents on $1. The notes of fifteen others, which had been wound up, were being redeemed in treasury notes at a somewhat higher rate.*

IOWA.—The Miners' Bank, of Dubuque, mentioned above as having been chartered by the Territory of Wisconsin, was the only bank in Iowa in 1840. It suspended in March, 1841; resumed July 1, 1842; and its charter was repealed in 1844, by virtue of a power reserved in it to the Legislature so to do.

The free banking law of 1858 forbade the payment of interest on deposits, required a specie reserve of twenty-five per cent. of deposits, prescribed that the stocks deposited for circulation must pay six per cent. or more, and that the circulation issued should not exceed ninety per cent. of the value of the bonds.

A Bank of the State of Iowa, on the plan of the Bank of the State of Indiana, was chartered March 20, 1858.

MINNESOTA.—The Constitution of 1857 provided that banks should always be taxed at the same rate as other property; that the credit of the State should never be loaned to anybody; that a general banking law might be passed by a two-thirds vote of both Houses, but it must contain certain provisions; that suspension of specie payments should never be sanctioned; that all circulating notes should be registered and secured by stocks; that stockholders in any bank should be individually liable for double their shares; that note-holders should be first paid out of the assets; and that the names of all stockholders in banks should be recorded, with the amount of stock, time of transfer, and to whom transferred.

The general banking law was passed March 19, 1858, and amended

* 17 Banker's Magazine, 1,002.

March 8, 1861. On account of the depreciation of the stocks in the Bank Fund, the rate of redemption of the notes of failed banks, in 1862, was from 16 to 35 cents on the dollar.

KANSAS.—The Constitution of 1859 provided that no bank should be established except by a general law providing for a deposit of stocks as security. The State might not be a stockholder in any bank. All banks must have offices of issue and redemption at convenient places in the State, to be named on the notes. No note might be allowed for less than $5. Every banking law must be submitted to the people, and might be amended or repealed.

The report from NEBRASKA, in 1860, was that the Territory had had six banks, all of which were broken. A Judge of the Third District of Iowa declared all the banks of Nebraska illegal in 1859.* The Secretary of the Territory calls it a "disastrous" system. He construes the act of Congress of July 1, 1836, as forbidding any Territory to incorporate a bank, but says that some hold that the Kansas-Nebraska act has repealed that prohibition. He appears to think that the prohibition would be very salutary.

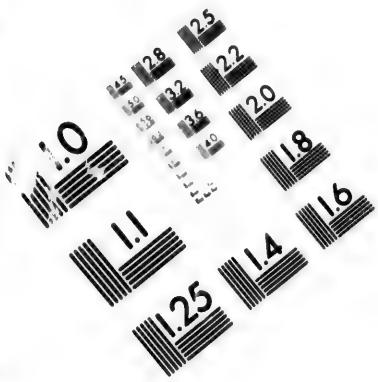
ARKANSAS went through 1857 without sharing in the troubles. The people of that State were "enabled to laugh at the storm which makes the rest of the country tremble." They thought that it was because their Constitution would allow them to have no banks.†

A law of that State, February 8, 1859, forbade the use or circulation in any manner whatever of notes under ten dollars after the following July 4th. After the same date in 1860 no note under $20 might be circulated.

CALIFORNIA.—During the first years after the gold discovery some private firms coined gold. Only one of them kept up to the standard of the United States. Proof was offered that gold coins, under such circumstances, could become merchandise, requiring negotiation, and not money, and that their presence could deprive a community of any money of account, just as we have seen that bank notes could operate, under similar circumstances, of depreciation. We are told that some silver coins having been imported, they were at one hundred per cent. premium; an interesting statement which is unfortunately not further explained.‡

Technical definitions are largely a matter of expediency and convenience, but this case brings out into strong light the inexpediency and unfitness of a definition of money, which makes it a generic term for all media of exchange. That definition bridges over the gulf between money, properly speaking, on the one side, and any securities or commodities, on the other side, in the use of which some preliminary transaction is required, or some incidental transaction is involved, before they can be employed as makeshifts for the functions of money. The function to be defined is specific, positive, and sharply distinguished from any other; therefore the first step towards scientific accuracy and productive treatment is to give that function a precise definition and an unambiguous name. For popular use, in connec-

* 14 Banker's Magazine, 410. † 13 Banker's Magazine, 586. ‡ 7 Banker's Magazine, 77.



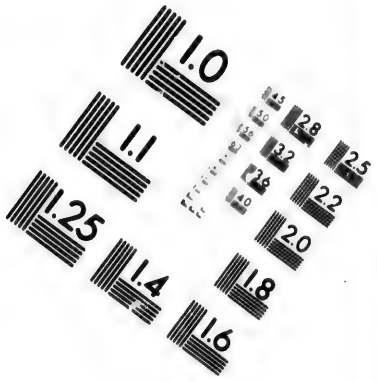
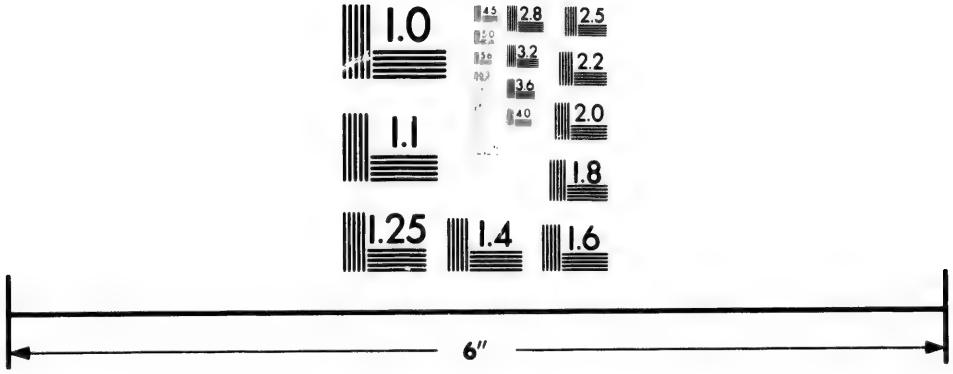
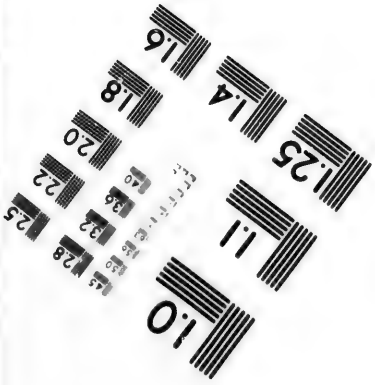
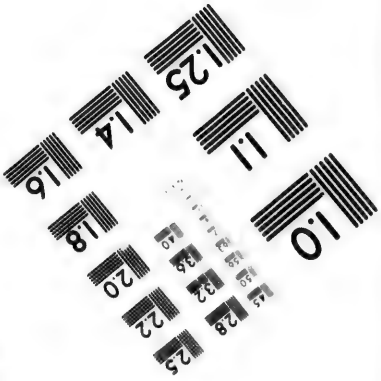


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tion with a matter where the chief errors and difficulties arise from confusion of thought, the same precision of definition, upon lines which will throw out all the distinctions into the sharpest possible relief, is also of the first importance. In the last analysis, all the fallacies of bimetallism rest upon a lack of a due conception of the money function in its full distinctness and isolation from everything else.

The Constitution of 1849 allowed no banking institutions for anything but safe deposit, and explicitly forbade all issue of paper currency to serve as money. A law of April 19, 1855, prescribed as a penalty for issuing any circulating paper a punishment, for the first offense, of imprisonment in the county jail for not more than three months, or fine not to exceed $2,000, or both; for the second, and every subsequent offense, not less than one year's imprisonment in the State prison; or the term might extend to five years, at the discretion of the Court.

The OREGON Constitution of 1857 forbade the existence in the State of any institution whatever issuing notes to serve as currency.

The average bank note circulation *per capita* was as follows:

1834 to 1840	$13.66	1846 to 1850	$9.89	1856 to 1860	$14.26
1841 to 1845	8.25	1851 to 1855	13.55	1861 to 1863	15.66

For the whole thirty years $12.41.

The States in which, in 1859, the circulation of notes under five dollars was illegal were Pennsylvania, Maryland, Virginia, Alabama, Louisiana and Missouri.

The ratio of specie to circulation and deposits in the different States, in 1859, varied from $4.25 on $100 in Illinois to $52.46 in Louisiana. Massachusetts had $21.63; New York, $20.39.*

In the Spring of 1861 four banks failed at Albany. Apropos of these failures the Banker's Magazine said: "A radical change in the banking system is required in this and particularly in Western States," and it spoke of the New York country banks as mushroom concerns. "The recent course of events in Illinois, Wisconsin and Missouri has demonstrated more strongly than ever the insecurity of the bank note currency of those States, and of other States where bank notes are issued on the security of State bonds."† This is the last general verdict on the old local bank system which we can quote from a friendly source before the upheaval of the whole currency and banking system by the civil war. If there had been no war, the banking and currency system of the country would have been a pressing, distressing, and unsolved problem. If the then-existing system was satisfactory, we find no proofs of it in the literature where that fact should have found expression.

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* 14 Banker's Magazine, 30.

† 16 Banker's Magazine, 5.

In 1862 there were fifteen hundred banks, the notes of 253 of which had not been counterfeited. The variety of imitations was 1,861; of alterations, 3,039; of spurious notes, 1,685.* From 1853 to 1862 the Association for the Prevention of Counterfeiting at Boston caused 434 persons to be sent to State prison for an aggregate time of 1,425 years, 4 months.†

The Bank Note Detector did not become divested of its useful but contemptible function until the national bank system was founded. It is difficult for the modern student to realize that there were hundreds of banks whose notes circulated in any given community. The "bank notes" were bits of paper recognizable as a species by shape, color, size and engraved work. Any piece of paper which had these appearances came with the prestige of money; the only thing in the shape of money to which the people were accustomed. The person to whom one of them was offered, if unskilled in trade and banking, had little choice but to take it. A merchant turned to his "Detector." He scrutinized the worn and dirty scrap for two or three minutes, regarding it as more probably "good" if it was worn and dirty than if it was clean, because those features were proof of long and successful circulation. He turned it up to the light and looked through it, because it was the custom of the banks to file the notes on slender pins which made holes through them. If there were many such holes the note had been often in bank and its genuineness was ratified. All the delay and trouble of these operations were so much deduction from the character of the notes as current cash. A community forced to do its business in that way had no money. It was deprived of the advantages of money. We would expect that a free, self-governing, and, at times, obstreperous, people would have refused and rejected these notes with scorn, and would have made their circulation impossible, but the American people did not. They treated the system with toleration and respect. A parallel to the state of things which existed, even in New England, will be sought in vain in the history of currency.

* Congressional Globe, 1862, p. 844.

† 17 Banker's Magazine, 845.

BANKING STATISTICS OF THE UNITED STATES; 1830 TO 1862.

For 1830-1833, from 14 Banker's Magazine, 765; 1834-1862, from 37 Cong., 3 Sess., 5 Ex. 210.

January.	Number of Banks.	Capital.	Circulation.	Deposits.	Circul. & Dep'ts per capita.	Specie.	Loans.
1830 . .	$394 m.	$182 m.	$51 m.	$58 m.		$24 m.	$272 m.
1831 .	426	186	57	62		25	285
1832 . .	448	191	62	67		25	301
1833 .	472	198	68	71		26	316
1834 . .	506	200	94	75		26	324
1835 .	704	231	103	83	$12.61	43	365
1836 . .	713	251	140	115	16.77	40	457
1837 .	758	290	149	127	17.66	37	525
1838 . .	829	317	116	84	12.46	35	485
1839 .	840	327	135	90	13.59	45	492
1840 . .	907	358	107	75	10.70	33	462
1841 .	784	313	107	64	9.79	34	386
1842 . .	692	260	83	62	8.07	28	323
1843 .	691	228	58	56	6.15	33	254
1844 . .	696	210	75	84	8.31	49	264
1845 .	707	206	89	88	8.96	44	288
1846 . .	707	196	105	96	9.90	42	312
1847 .	715	203	105	91	9.35	35	310
1848 . .	751	204	128	103	10.65	46	344
1849 .	782	207	114	91	9.17	43	332
1850 . .	824	217	131	109	10.39	45	364
1851 .	879	227	155	128	11.87	48	413
1852 . .	992*	237*	156*	189*	13.31	53*	527*
1853 .	1,098*	225	146	145	13.66	47	408
1854 . .	1,208	301	204	188	14.97	59	557
1855 .	1,307	332	187	190	13.95	53	576
1856 . .	1,398	347	195	212	14.66	59	634
1857 .	1,416	370	214	230	15.52	58	684
1858 . .	1,422	394	155	185	11.56	74	583
1859 .	1,570	401	193	259	14.91	104	657
1860 . .	1,562	421	207	253	14.66	83	691
1861 .	1,601	429	202	257	14.13	87	696
1862 . .	1,496	419	183	297	14.36	102	647

* Supplied from the Banker's Magazine, as above.



CHAPTER XVI.—Continued.

§ 2.—*The Banks at the Outbreak of the Civil War; 1860 to 1863.*

"The year 1860 will long be remembered as one of the most extraordinary of the century in its commercial and financial features. No previous year has exhibited stronger indications of prosperity amongst merchants, manufacturers', capitalists and the great agricultural interests of the country at large. We speak of these in their aggregates." The crops of hay, corn, wheat, cotton and tobacco were all large. "The only speck in the horizon is the threat of secession in the South."*

At the beginning of October there was a very active bull market for stocks. Railroad earnings were large and stocks showed a great advance from the prices at the beginning of the year. There was some reaction against this, and disappointment at results on the western railroads, before the political influences began to have effect. The Pennsylvania election early in October indicated the probability of Lincoln's election. At the end of the month the bears prevailed. In November a contraction of credit took place. In Virginia, Georgia, and South Carolina the restrictive laws on banks were repealed or relaxed, in preparation for revolution. On the 20th and following days the banks of Virginia, North Carolina, Georgia, Charleston and St. Louis suspended. They were followed by those of Baltimore and Philadelphia. At the last city there was an important run on the banks. The suspension of the Philadelphia banks caused that of the banks of West Jersey. On the 12th there was a panic on the New York stock market, with a decline of 8 to 12 points on the price of stocks.

The New York banks determined on a policy of freer loans in order to quell the panic. At a meeting, November 21, it was agreed that the clearing house should appoint a committee who should receive and hold New York or United States securities, and issue thereon certificates for seventy-

* 15 Banker's Magazine, 417.

five per cent. of the value, good at the clearing house. The certificates were to bear seven per cent. interest, which was to be divided amongst the banks which should take them. The amount was set at $5 millions; afterwards increased by $5 millions more. The specie of all the banks was to be united as a common fund. Each bank was to hold specie, after February 1, for one-fourth of its net liabilities. One which failed so to do for two weeks was to be excluded from the Association. The Chemical Bank refused to participate in the plan. It was boycotted until April.*

In December specie was received from Europe, the news of the financial difficulties here not having created any alarm. The exchange was very low; commercial bills were not salable unless of the best, and the exportation of the crops was arrested until these sums were received. Specie was also received regularly from California. The policy of expansion in the face of the panic proved entirely successful. The crisis passed and the winter went by without any further difficulty, although there was anxiety, and all enterprise was checked. The community with one accord adopted the policy of liquidation, quiescence and cash, while waiting to see what would happen.

In January, 1861, sterling exchange was down to 103 1-2. During the summer it remained between 104 and 108, and did not reach par until December.

During the year the banks of the three leading commercial cities showed the same movement. In New York the loans diminished from $129.6 millions, on January 5, to $108.7 millions August 17th. Then they increased to a maximum of $162.7 millions on November 30th, and were at $154.7 millions December 28th, when the suspension took place. Circulation likewise diminished from $8.6 millions at the beginning of the year to $8.3 millions, July 27th, and rose again to $8.4 millions December 28th. The minimum point was $7.9 millions, January 26th, and the maximum, $9.3 millions May 11th. The deposits rose until April 20th, fell to their lowest point June 22d, but rose again very rapidly in the last three months of the year. The specie stock increased from January until the middle of August, doubling in that period; but then gradually fell off again and ended the year less than $5 millions greater than at the beginning.†

The banks of Boston offered to the Governor, April 18, 1861, such monetary aid as he might need, to the extent of ten per cent. on their capital. The restriction of business had set their resources free.

August 15, 1861, the Associated Banks of New York, with the banks of Boston and Philadelphia, entered into a contract with the Secretary of the Treasury to buy government securities to the amount of $150 millions, in three instalments of $50 millions each. The Associated Banks of New York adopted a system for executing this contract, and at the same time protecting their own position. Amongst the rest it was provided that the specie stock should not be allowed to fall below one-fourth of the

* 15 Banker's Magazine, 500.

† 16 Banker's Magazine, 388; 558.

net liability, exclusive of the circulation and of the credit given to the Treasury. In case of a deficiency of this amount of specie in any bank, it was to pay interest thereon, which was to be distributed, by the Loan Committee elected to supervise this operation, amongst the banks which had the greatest excess over twenty-five per cent. The share of the New York banks in each division of this loan of $150 millions was $35 millions. The Loan Committee was also to issue loan certificates to the participating banks available for settling balances between themselves in case at any time it should be necessary, on account of any embarrassment produced by the advances to the government. The first of these loan certificates were issued September 19th, when the banks had paid in $23.1 millions in coin on account of their subscription to the seven-thirty treasury notes. The treasury notes were not received until January 13th. The Loan Committee was to apportion the loans among the banks in proportion to their capital; also the several payments to be made on account of the loans, and the proceeds of the sales of the securities as made by the government for account of the associates. They were also to divide the securities among the banks, and to pay over the interest as it was collected. The final cash reimbursement was made January 13, 1862, and the residue of the loan unsold, being not quite $4 millions, was distributed amongst the banks immediately afterwards. The securities under this loan were taken at 90.

The second subscription by the banks to the seven and three-tenths notes was made October 1, 1861, and a third loan, in a subscription to six per cent. bonds at about eighty-nine and a third, was made November 16th. The last bonds under this subscription were delivered March 5, 1862. Although the bonds declined while the operation was going on, they were above the subscription rate when it was closed. While this operation was going on, loan certificates were issued to thirty-nine of the fifty banks. The largest amount at any time outstanding was $21,960,000, between the 3d and 7th of February, 1862. They bore interest at seven per cent., which was paid to the banks which held them. Nineteen banks received $149,247 more than they paid. The Loan Committee in their report on these proceedings say: "Of all the great interests of the country, no one has been more affected than the banking interest, nor has any other contributed more for the preservation of our country and its government. To the banks of the three cities of New York, Boston and Philadelphia the people of the United States owe a debt of gratitude, especially to the banks of this city, who in August last took the lead in expressing their confidence in the stability of the government of this country, by placing at risk the capital of their stockholders for its maintenance. But for such support it would have been revolutionized."

The independent treasury was suspended by act of Congress, August 5, 1861, so far as to allow the Secretary of the Treasury to deposit money obtained by loan "in such solvent, specie-paying banks as he may select," and he was apparently authorized to draw on those banks in disbursements

of public money; but Secretary Chase did not use this permission. He required the loans to the government to be paid over into the government depositories. At the same time the preparation of the government securities was so delayed that they could not be delivered to the banks. "It was under these circumstances that the banks in New York resolved, on the 28th of December, 1861, to suspend specie payment. * * * The suspension of specie payments, therefore, is to be traced primarily to the patriotic efforts of the banks in the great cities to sustain the government."* A conservative bank movement followed the suspension, but after April, 1862, there was a rapid expansion of loans, deposits and circulation, accompanying the premium on gold and silver.

The banks of Kentucky had not suspended in January, 1862. These, with the banks of Ohio and Indiana, were the only ones in the country, with some scattered exceptions, which still held out. There was a great struggle in Ohio as to whether the Board of Control should allow the Bank of the State to suspend.†

To the authorities at Washington it seemed that the resource of loans from the banks was not adequate to the financial necessities of the time. The expenditures were already $1 million a day and very rapidly increasing. The banks having nearly all suspended, there was great fear that a continuation of borrowing from them might lead to a repetition of the trouble of 1814, and that suspended banks would manufacture currency for the purpose of loaning it to the government. These misgivings and apprehensions furnished the motive of the legal tender act of February 23, 1862, by which the government undertook to help itself by the issue of an irredeemable treasury-note currency.

We have already seen that he who issues notes borrows; that he lays hands upon the value money in circulation, putting his promise currency in the place of it. If, therefore, a country has a metallic circulation, there is an immediate financial resource at the disposal of the government, in case of war or other calamity,—a resource which is strictly limited, however, in its amount to the amount of this metallic circulation. It is not necessary that the specie should be drawn into the public treasury. It suffices to suspend specie payment and issue treasury notes which will displace the specie without depreciation, until the limit of the specie circulation is reached. Beyond that point the exchanges turn adverse, the paper depreciates, and the specie is exported. At the outbreak of the civil war, it was a critical fact in the financial situation that the federal government did not have this resource at its disposition, because this resource had all been used up to its utmost limit in peace time by the banks, to whom it had been given away. There were a few men in Congress, in 1862, who were prepared to say to the banks that they must at once retire their circulation; that they had been allowed to have this privilege up to that time, but that then the public needed to use it for its own purposes and could no longer afford to give it

* Superintendent, 1862.

† 16 Banker's Magazine, 650.

away. Correct as this position unquestionably was, it encountered at once the political obstacle that no such vigorous measure could be carried, and also it was inadequate as a financial measure, because it would take time; and the chief advantage of the financial resource offered by a metallic circulation is that it can be used without a moment's delay, while plans for making loans or laying taxes are being realized.

The government treasury notes were therefore issued on top of a circulation which was already full of bank notes, and the consequence was immediate depreciation of both.

The critical period with regard to the finances of the war was from July, 1861, to January, 1862. The real issue was whether the war should be conducted on inflation or contraction. There were those who argued that the people should be cajoled into the support of the war by an apparent prosperity, produced by paper money inflation; but it does not appear that the administration adopted this view, although it failed to rise to that pitch of courage and energy which the temper of the people would have warranted. The issue appears rather to have presented itself to the men at Washington as this: Whether they should make plans for a long war, which would need thorough and comprehensive measures for its management, whereby they might be led into expenses which would later prove to have been unnecessary; or, whether they might adopt for a short time make-shift expedients, since the war would be short. Before this question of policy was settled, the delay produced an accumulation of difficulty which was used as an argument to force the adoption of desperate measures.

During the year 1862, the circulation of the banks in Maine, New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, and the cities of Philadelphia and Baltimore increased about thirty-eight per cent.; loans increased about twenty-two per cent. There was a universal movement of expansion and inflation. Bankers declared "that the circulation had expanded in spite of efforts to keep it within limits; that bills issued did not come back for redemption; and that, on the other hand, fresh supplies were constantly called for by depositors and customers having to provide for payrolls or to make other petty payments."*

By an act of Congress, July 17, 1862, the issue and circulation of fractional notes was made punishable by a fine of not more than five hundred dollars and imprisonment for not more than six months.

From January to July, 1863, the bank circulation of Boston, New York, and Philadelphia was reduced nearly thirty per cent.

The banks of Boston, New York, and Philadelphia loaned the government $50 millions, in old legal tenders, in September, 1863, to meet a special emergency. Unfortunately this loan also was attended with some dissatisfaction on the part of the banks, on account of delay in furnishing the one-year legal tender notes bearing five per cent. interest, which were to have been given for the loan.†

* 17 Banker's Magazine, 409; 413.

† 18 Banker's Magazine, 608; 679.

PERIOD VI.—FROM 1863.

CHAPTER XVII.

The National Bank System.



N his annual report for 1861, Secretary Chase discussed an issue of government treasury notes to serve as currency, but rejected that plan on account of its "possible disasters." He then turned to a scheme whose principal features he described as "first a circulation of notes bearing a common impression, and authenticated by common authority; second, the redemption of these notes by the associations and institutions to which they may be delivered for issue; and third, the security of that redemption by the pledge of United States stocks and an adequate provision of specie." He adopted the computation of the bank circulation at $202 millions, of which $150 millions was within the federal lines. "The whole of this circulation constitutes a loan without interest from the people to the banks, costing them nothing except the expense of issue and redemption, and the interest on the specie kept on hand for the latter purpose; and it deserves consideration whether sound policy does not require that the advantages of this loan be transferred in part at least from the banks, representing only the interests of the stockholders to the government, representing the aggregate interests of the whole people."

The President, in a message of January 17, 1863, expressed his anxiety about the increasing depreciation, and suggested a taxation of bank circulation to prevent it, and also proposed to make the banks bear their just share of public burdens; but the point of the communication was that a uniform currency was necessary for public credit and for contracting loans. "Such a currency can be furnished by bank associations organized under a general act of Congress, as suggested in my message at the beginning of the present session. The securing of this circulation by the pledge of United States

bonds, as therein suggested, would still further facilitate loans, by increasing the present and causing a future demand for such bonds." In short, the motives of the legislation which established the national bank system were political. It was desired to change the currency in a way to make it more useful in the financial exigencies of the government, and to borrow all the banking capital of the country as a further financial resource. There was no consideration of favoritism to the banks and they, almost without exception, opposed the change. The arrangement might also be regarded as a compromise by which the government, instead of depriving the banks of the privilege of circulation, shared it with them. The first national bank act was passed February 25, 1863, but it was superseded by the act of June 3, 1864. The associations were to be organized for twenty years, with a minimum capital of $50,000; the smallest deposit for circulation, $30,000; on such deposits of United States bonds, 90 cents on $1 of market value, not exceeding par, were to be furnished in circulating notes by an officer of the Treasury Department. The lowest denomination of notes was to be $1 until after resumption; then $5. The notes were to be a legal tender to and from the government and to be received at par by all the banks in the system. The banks in the sixteen leading cities were required to maintain a reserve of lawful money equal to twenty-five per cent. of their circulation and deposits, and all others fifteen per cent.; three-fifths of the fifteen per cent. in the latter case might be kept on deposit as a redemption fund in one of the sixteen large cities, and one-half of the reserve of the large cities might be kept in New York. Quarterly reports were required to be published in the newspapers, but this was changed in 1869 to the requirement that five reports should be made annually, at any time when the Comptroller of the Currency might call for them. A tax of one per cent. per annum was laid on the average amount of the circulation, and one-half of one per cent. on the deposits, and the same rate on the capital stock not invested in United States bonds. The two last were repealed March 3, 1883. The act of March 3, 1865, allowed only a smaller proportion of circulation to capital for large banks, so that a bank with more than $3 millions capital could have only sixty per cent. The total amount of national bank circulation was fixed at $300 millions, of which half was to be apportioned amongst the States and Territories, according to population, and half according to existing banking capital and business. This apportionment proved impracticable, and after the close of the war there was complaint that national banks could not be formed in the Southern States. The limit was therefore increased by $54 millions, July 12, 1870; this amount to be apportioned to the States and Territories which had less than their quota. The act contemplated a withdrawal and redistribution of the surpluses; but this also proved impracticable.

Power was expressly reserved to Congress "at any time to alter, amend, or repeal" the national bank act. We have the testimony of Amasa Walker that the bill was passed against great opposition, without discussion, by the

efforts of the Secretary of the Treasury, and by party tactics, and that it would not have been passed without the last-mentioned provision.*

In 1874 the New England States had $70.3 millions and the Middle States $8.7 millions of circulation in excess of their quotas in a distribution of $354 millions. The only other surpluses were small ones in the District of Columbia, Colorado, and Montana.

The number of national banks established before November 28, 1863, was 135. A year later the number was 584. It was in 1865 that the banks went over almost in a body to the new system. Amongst the reasons of the Philadelphia banks for changing, it was said that "the city banks, which are considered the fat goose at Harrisburg, to be plucked at pleasure, will be removed from that body forever."†

The national bank system had no sooner gone into operation than a necessity was experienced for some system of assorting, redeeming, and exchanging the issues. An Assorting House was planned by bank officers, at New York, in July, 1865.‡

An act of March 3, 1865, levied a tax of ten per cent. upon any bank notes paid out by any bank, not being national bank notes, after July 1, 1866. This measure was carried in the House by only one majority.

The Secretary of the Treasury desired, in 1864, that the national banks should be reserved for federal taxation only. The loan bill of June 30, 1864, contained a provision that the interest-bearing notes of the government should not be legal tender for the redemption of bank notes. Gold banks were provided for by the act of July 13, 1870. They were to deposit bonds of the United States, bearing interest, payable in gold, and to obtain notes for not less than $5 to the amount of eighty per cent. of the par value of the bonds. The notes were to bear a promise to pay, on presentation, in gold coin of the United States.

It is evident that the national bank system is a product of the history of American banking. Every important point in it stands out as the result of some long and important line of experience during the previous seventy or eighty years. It was built upon the model of the New York free banking law, but it contained the mature judgment of the leading public men of the time in regard to the good and bad features of that system, and the guarantees that were necessary under it. Its first great feature was that it was national and federal,—a thing which in the days of misery under the local bank system people had sighed for again and again as an unattainable hope. It is a great point which must be put to the credit of the civil war that it brought about what was otherwise a political impossibility. The federal laws and the federal administration of justice had not always stood up unflinchingly in defense of sound doctrine and the integrity of institutions; but they had proved on many occasions the safeguards of these things against State laws and State courts. It was a tremendous gain,—one which people

* 22 Banker's Magazine, 174. † 19 Banker's Magazine, 410. ‡ 20 Banker's Magazine, 198.

now-a-days do not realize or appreciate, unless they know what the previous history had been; that currency banking, and with it, to a large extent, the whole system of banking, were brought under federal control.

The "national currency," to call it by its technical and proper name, was a uniform currency, such as the people had dreamed of and hoped for for fifty years, and such as never has existed anywhere else over a territory even a fraction as great. If it has not produced an equalization of the exchanges, it has reduced the internal exchanges of the country to an insignificant minimum. It would be a disaster, if it were possible, to do away with the rate of exchange which distributes capital and currency as they are wanted; but it is a marvellous thing that that re-distribution should be brought about at such slight expense over a whole continent, as is now the case amongst us.

This banking system incorporated and employed the Suffolk system, around local centers, throughout the country, embodying another of the most successful experiments of the previous time.

Various attempts have been made to construe and explain the system of the national currency, because it may, in fact, be turned into very different lights. The government guarantees the note-holder, because it is itself a debtor of the bank; and it promises to pay the note-holder, who is a creditor of the bank, instead of paying the bank; and in order to be in a position to do this, it takes back the evidence of its debt from the bank, holds it in its own control, and when the exigency arises, sells it to somebody else,—that is, contracts a loan elsewhere, in order to pay the note-holder. It has been objected, and on theoretical grounds with complete good reason, that this system guarantees only ultimate re-payment, not cash redemption or true convertibility; but in practice the note is as good after the bank has failed as before, and continues on its course, the holder probably never knowing that it was issued by a bankrupt institution, until it finds its way to the redemption bureau. It must be noticed that, in this respect, the national currency differs essentially from its prototype in New York. In that State, when a bank belonging to the free bank system failed, its notes became uncurrent.

It seems a much more useful and correct construction of this currency system, however, to regard it as reaching substantially the same result which is reached in the Bank of England, under the act of 1844, constituting the Issue Department as an independent thing, entirely separated from all the vicissitudes of the banking business. The Bank of England loaned on a book debt to the government, and the notes of the Issue Department are based, as respects what might be called their permanent amount, on this debt, and the fluctuating margin (which, it is true, in that case is very large), rests upon an equal amount of specie. In our national bank system bonds, as circulating evidences of a government loan, are bought and deposited, and the notes issued upon them may properly be regarded as constituting an internal core or permanent part of the total circulating medium of the country, with a provision for cash redemption upon the variable margin.

This system of currency has put an end at once and forever to the old banker's trick of expansion and contraction. The present generation knows of that trick hardly by tradition. It is now complained that the national bank note currency is not elastic. That is very true. The old local bank note currency had the highest conceivable elasticity, and instead of varying with the requirements of the market, the banker was forever operating on its elasticity by his arbitrary will, and imparting fluctuations to the market. In order to stop him from doing that, a stringent system has been made, which has taken away the elasticity altogether; but if there was no other currency than a national bank note currency, limited far within the requirement, and combined with a large component of specie, the specie margin would give all the elasticity which would be required.

It is not possible that any government issue, whether direct like the greenbacks, or indirect like the national currency, should ever be elastic. It cannot be conducted on the banking principle, but only on the currency principle. We have attempted to maintain the government issue on a reserve of specie, which was planned at first to be one-third of the paper, in reliance on an old-fashioned empirical rule of banking; but a government issue can never be made to imitate the ebb and flow of the operations of the market. If the issues are put out in the payment of expenditures and are recovered in taxes, the two movements take place within some limit of time which is a tax period; but this does not resemble the movements of the market any more than a petty and arbitrary mechanism resembles an organism. What sustains a bank note circulation, as we have had repeated opportunity to observe, is the pulsation of borrowing and lending, or buying and paying, which, within a limit of time, for successful transactions, must equal each other. At every pulsation the bank notes are called into existence, and are canceled. A permanent government issue cannot be made to operate in a way in the remotest degree resembling this.

Under the operation of the paper-money system which existed for fifteen years after the war, prices and credits expanded to absorb the paper. Every autumn a stringency was experienced in the money market when the demand came for moving the crop. Under the pressure of the demand created by this stringency, the Secretary of the Treasury re-issued, in 1869, $1.5 millions of the treasury notes which had been retired by Secretary McCulloch. They were afterwards withdrawn. In 1871 a like sum was issued and withdrawn. During these years the effect of the central redemption system was to draw more and more of the free capital of the country into New York; but the expansion absorbed it all and renewed the stringency. In 1872 the amount issued was about $5 millions, and there was great difficulty to get it back. These phenomena all pointed to the fact that the system was working to a crisis. The cycle of phenomena of a paper money inflation was regularly repeated up to the point where the next thing to be expected was a crisis. The stage of investment in fixed capital had already been reached for a year or two. In this case it consisted

of railroad building, by means of bonds floated in the eastern market. The rate of interest had also been rising year by year. In the summer of 1873, a Granger agitation at the West frightened investors from the railway securities, and brought distress upon the new railroad enterprises, and upon the bankers who were negotiating railroad securities. September 8th, the New York Warehouse and Security Company failed, followed by two or three banking firms with railroad enterprises on their hands. A run for legal tenders began at New York, where a certain arbitrary and artificial preference had been established for them. September 18th, Jay Cooke & Co. failed on account of a crisis which had occurred in the affairs of the Northern Pacific Railroad, for which they were negotiating bonds, and to which they had made advances. The run for deposits now began in the country towns, although without excitement or panic. The country banks called home their deposits from the redemption cities, and the latter from New York. The New York banks called for it from Wall Street, where it was in use. Rates for money rapidly advanced and prices fell. On the 20th the Union Trust Company and two or three other banks and trust companies suspended. The stock exchange became a scene of panic and prices fell with great rapidity twenty per cent. or thirty per cent. The stock exchange was closed, as the only means to arrest the panic, and it remained closed for ten days. On the following Monday, the 22d, the gold exchange also closed; gold at 112. On the 20th the Associated Banks had pooled their stock of greenbacks and issued certificates at seven per cent., good at the clearing house, which were to be loaned for seventy-five per cent. of the value of the securities deposited. The amount of these issued between that date and January 14, 1874, at New York, was $26.5 millions; at Philadelphia, $6.7 millions. The President and Secretary of the Treasury were in New York on Sunday, the 21st, and refused to use any part of the $44 millions of the withdrawn greenbacks, but they ordered bonds to be bought by the Assistant Treasurer, with his cash on hand. This produced the same result, for before January 1st, over $26 millions of the withdrawn greenbacks were issued. The amount of bonds purchased was $12 millions. The situation was one really of a suspension of paper payments in New York City. There had been no panic amongst the merchants, nor outside of New York, except among some savings bank depositors. Nevertheless the shock to credit was very deep; speculation was completely arrested; industry was checked; hours of labor and wages were reduced; and a liquidation was commenced, which lasted five or six years. The number of bankruptcies in 1873 was 5,183; liabilities $228.1 millions. The failures in 1874 were 5,830; liabilities, $155.2 millions.

The session of 1873-4 was full of currency schemes, which at last issued in an act to increase the note issue of the national banks, distributing the increase amongst the States; and the banks were to keep, as a part of their reserve, one-fourth part of the coin which they received for the interest on the bonds deposited for circulation. The President vetoed this as an infla-

tion measure. It would have carried the bank note circulation up to $400 millions. Another section in it provided that the limit of the greenbacks should be $400 millions,—that is, it put back into circulation all which McCulloch had retired.

Another bill was immediately introduced, which became a law June 20, 1874. The reserve required in the law for the national banks was restricted to the deposits, and a redemption bureau was provided for the circulation, supplying the want for which the Assorting House had been planned. Each bank was required to deposit in this bureau, in greenbacks, five per cent. of its circulation, which might be counted into its lawful reserve; whenever bank notes were presented to the Treasurer of the United States in multiples of $1,000, they were to be redeemed from this fund and charged to the banks which issued them. When $500 were so withdrawn from the deposit of any bank, it was to be notified to make it good. If this was done, new notes were to be issued. The redemption at the redemption cities was done away with. This device was intended really to keep the national currency clean and in good order. The banks were also allowed by this act to deposit legal tender notes and take up their bonds, thus reducing or entirely withdrawing their circulation. The limit of the greenbacks was set at the point where it then stood, with the $26 millions out,—that is, at $382 millions.

The veto by President Grant of the inflation bill in the spring of 1874 was really the turning point in the struggle between inflation and resumption. At the next session, the resumption act of January 14, 1875, was passed. Fractional silver was re-introduced. The appreciation of the greenback and the depreciation of silver had gone so far that the fractional coins could be maintained in circulation. All charges for converting standard bullion into coin were repealed. All limit on the amount of national bank circulation was removed. This was in concession to a demand for free banking. After this, therefore, it was free to anybody under the conditions of the law to organize national banks, or to dissolve and wind up the same at will; but whenever any new banks were formed, increasing the national currency, the Secretary of the Treasury was required to redeem greenbacks for eighty per cent. of that increase, until the greenbacks should be reduced to $300 millions. This was construed to apply to the increase of national bank notes, without any reference to the reduction of the same, which might be going on at the same time. After January 1, 1879, the Secretary of the Treasury was to redeem, in coin, any legal tender notes presented at the office of the Assistant Treasurer in New York, in sums of not less than $50. In order to do this, he might sell bonds to provide the redemption fund. During the years 1878 and 1879, the gold premium was steadily reduced,—that is, the whole paper currency advanced towards par.

In May, 1884, during a temporary stringency in the money market at New York, it again became necessary to issue clearing house certificates. Between May 15th and October 3d, they were issued to the amount of $24.9 millions.

The charters of the national banks began to run out in 1883 and 1884. In anticipation of this, the act of July 12, 1882, provided for their extension for another twenty years. The minimum amount of bonds requisite to remain in the national bank system, to be on deposit for circulation, was reduced to one-quarter of the capital, for banks with less than $150,000 capital, the minimum capital remaining at $50,000. The reduction of circulation under this law was limited to $3 millions per month, and a bank which had reduced could not increase again within six months.

As the United States bonds increased in value, the profits of the circulation of a national bank declined. When the charters were renewed, the question of continuing the system was raised, and there was no little hostility to it manifested. One of the chief subjects of complaint was that the national banks get double interest on their capital. Every bank of issue gets double interest on its capital, minus such deductions as must be taken into account for taxes, specie reserve, and so on. If the bonds must be bought at a premium, and only 90 cents on $1 of their par value can be obtained in circulation, the deductions are so important that the special advantages of being in the national system are very slight.

The greatest amount of national bank notes outstanding at the end of any fiscal year was, in 1882, $358.7 millions. In spite of the formation of new banks, the voluntary withdrawals reduced the national currency, in 1891, to $167.5 millions. This is in a total net circulation, in the hands of the people, as current cash, of $800 or $900 millions. As these banks went out of existence, or out of the system, or reduced their circulation, the amount of greenbacks deposited by them in the Treasury to retire their circulation, as it should appear at the redemption bureau, increased until, in 1887, at its maximum, it amounted to $97.9 millions. According to the current view, this was so much money withdrawn from circulation, and by the act of July 14, 1890, it was turned into the available funds of the Treasury, and the Treasury became liable for the redemption of a corresponding amount of notes.

Clearing house certificates were again issued at the time of the Baring failure in 1890. Between November 11th of that year and February 7th following, the amount issued at New York was $15.2 millions; at Philadelphia, $8.8 millions; at Boston, $5 millions.

The democratic platform of 1892 favored a repeal of the ten per cent. tax on the State bank circulation. In June, 1894, a bill was introduced into the House of Representatives to remit the ten per cent. tax on State bank notes which had been used between August 1st and October 15th in the commercial crisis of 1893. An amendment was proposed repealing the ten per cent. tax altogether. It was lost, 172 to 102, and the bill was defeated.

The financial storm of 1893 is properly called a panic. By various steps taken in the way of concession to silver the currency had once more been made excessive, independent in amount of the demands of trade, and com-

plicated. The doubt had so far been quelled, not without difficulty, that the different kinds of currency might not be maintained on an equality with each other, and that one portion might fall below gold value. The constant apprehension was, so long as then-existing legislation remained in force, that the unit of existing monetary relations would be changed. Such an apprehension is the surest ground for panic which can be offered. The panic which resulted when this fear became more specific was not a bank panic, nor a crisis in which the banks had any responsibility. When it broke out, important weakness was developed in the banks south and west of the Potomac. National and State banks to the number of 360 suspended, of which 343 were in that section. In a number of cases these failing banks were connected with each other in a way to remind us of the old combinations of weak or rotten institutions linked together for mutual support, resulting in common collapse. The fact was also developed by the temporary and very short suspension of a number of the banks that the attempt to use their reserve funds in the redemption cities had been carried too far, and that they were at the mercy of any financial storm which might arise from causes far outside of their responsibility, and which might precipitate demands on them so suddenly that the agencies of steam and telegraph would not avail to call home their funds in time. Such a fear as then existed lest some part of the currency would lose value produced the most sudden and intense contraction which could possibly be operated, and the banks contributed to intensify this, so far as they suspended cash payments upon a weak and unfounded assumption of necessity, instead of meeting it with courage. This occasion enforced once more the most positive and direct lesson which we have learned in regard to panics, that the one way to quell them is to meet them fearlessly and in face.*

The clearing house certificates issued at New York between June 21 and November 1, 1893, amounted to $41,490,000. The largest amount outstanding at any one time was, from August 29th to September 6th, $38,280,000. The issue at Philadelphia was $10,965,000; at Boston, $11,445,000. The deposits, which had been increasing at New York City, amounted, February 4, 1893, to $495.4 millions. From that point they steadily decreased until August 19th, when they were $370.3 millions. After the crisis was over they immediately began to increase again, and on December 22d they were $498 millions.

From 1883 to 1893 the annual number of failures was about 11,000, the average liabilities per failure about $12,000, the assets about fifty-two per cent. of the liabilities. In 1893, the number of failures was 15,508, the average liabilities per failure, $24,632, the percentage of assets to liabilities, sixty. In 1894 and 1895 the failures continued numerous (12,721 and 13,013), but the average liabilities per failure were nearly at the former rate; still the percentage of assets to liabilities remained high, 53.7 and 55.7 per

* Noyes, The Banks and the Panic of 1893.

cent. These figures show: 1—that the failures in 1893 were in the large enterprises, and that, in the following years, they reached the smaller ones; and 2—that, in all these years, they were not due to a bad state of trade, but to bad conditions which brought down men who were fairly strong. Those bad conditions must be sought in mistaken legislation.

The last noteworthy incident in the history of the banks is their attempt to assist the Treasury, in 1894, in the maintenance of the "gold reserve." The most which it could be hoped to accomplish was to win time for public opinion, or political combinations, to reach a point at which some radical and effective reform of the currency could be made.

The total number of national banks organized, down to October 31, 1895, was 5,023, of which there were 3,715 in existence at that date, with $664 millions capital and $336 millions surplus, owned by 285,190 shareholders. The total circulation was then $213 millions. Against this $23.7 millions had been deposited in lawful money with the Treasurer, although treated by him as available means. There were east of the Mississippi, 2,611 banks with $527 millions capital; west of it, 1,104 with $135 millions capital. The average annual dividend for twenty-six years was 8.4 per cent.; in 1894, it was 6.8 per cent.

Since the national banking system was adopted the local banks have had no "history." It has been almost impossible to obtain statistical information in regard to them. In the year 1895, the Comptroller of the Currency obtained a sufficient number of returns about State banks, private banks, and trust companies to approximate to the desired information.

There were seventeen States and Territories from which the information was incomplete. Reports from 3,774 State banks were received, showing that they had capital, $250 millions; surplus, $101 millions; deposits, $712 millions; loans, $697 millions. Reports of dividends earned by 928 of them, in twenty-four States, showed an average of 7.2 per cent. per annum. Reports from 242 trust companies were received; capital, $108 millions; surplus, $84 millions; loans, $433 millions; deposits, $546 millions. One thousand and seventy private banks had $33.2 millions capital; $10 millions surplus; $81.8 millions deposits; $85.4 millions loans. The total banking capital, including surplus, of banks of all classes, was nearly $1,600 millions, of which the national banks had five-eighths.

Four States and one Territory require no reports from banks organized under their laws; six others require only one report in a year. Thirty States require that the reports be published in the local newspapers; twenty give reports about banks in annual or biennial reports; six make no provision for publishing information about them. Fourteen States allow banks to issue circulation; nineteen prohibit circulation; several have no law on the subject. Twelve States have no provision for the examination of banks by State officers. Seven States have no restrictions on bank loans; nine prohibit loans to officers or employees; most of them prohibit loans on the

bank's own stock; twenty-four have no requirement for a cash reserve. Three States own investments in bank stock.

These facts show that the local bank systems are now still as heterogeneous and crude as they ever were, that it is as vain to hope for concord and co-operation between the States, in reference to banks of issue, as it ever was, and that State legislation is far behind national legislation in respect to sound and intelligent treatment of this subject.

On the first page of this history we found the public preoccupied with the question: How shall we get a currency? Throughout the history we have seen them struggling with the question: How shall we get *enough* money to do our business with? They have believed that somebody must provide a currency, that there would not be any, or would not be enough, if banks did not provide it. They have also believed that there was some great economy possible in the use of paper for money. Hence they have wanted money, plenty of money, and they have wanted it cheap. Scheme after scheme has been proposed and tried for realizing the gain which it was believed that cheap money could produce for the public; that is, for those who buy and use currency. This gain has been pursued as the alchemists pursued the philosopher's stone, by trial and failure. Whether there be any such gain or not, our attempts to win it have all failed, and they have cost us, in each generation, more than a purely specie currency would have cost, if each generation had had to l ıy it anew. The privilege of selling to the public the cheap money on which they had set their hearts, either in the form of paper or base metal, has been fought for with rapacity, and with social and political abuses of the gravest character. States which provide coinage of the most perfect kind win no profit from it; on the contrary, it comes under the head of a useful and necessary public expenditure. The State can win only by treason to the high function which it has assumed, for no other reason than to guarantee to the public absolute integrity in its money; it must debase the coinage and set its seal on a lie. Banks which furnish a bank-note circulation of the best kind can win nothing from it but payment for furnishing a convenience to such an extent as the public may want it. To win more they must perpetrate some fraud on the currency, such as those which banks did perpetrate throughout this history. The history shows that they did not win by it. The revulsions to which the system was subject overwhelmed them in every decade. The notions on which the system was based, and which are mentioned at the beginning of this paragraph, are proved to have been delusions, disastrous to everybody concerned, including those who tried to profit by them.

At the moment of this writing, the turmoil and confusion, the conflict of opinions and projects, the clash of political schemes, in and around the currency, are as great and mischievous as they ever were. The banks have

but a very subordinate share in it, and are not to blame for any part of it. Eight or nine hundred millions of paper rest on a specie reserve which was originally planned for three hundred and forty-six millions, and that upon a fallacious plan. The stability of this currency has been maintained for two years by arbitrary purchases of gold, involving a manipulation of the foreign exchanges. Such manipulation may be excusable under great stress of other dangers, but it is perilous to some of the greatest and most delicate interests of the country. Theoretical and practical financiers must agree that this manipulation is a subject of grave apprehension, all the more because it is beyond the power of any man to foreesee or estimate the consequences in their remoter reactions and more extended complications. The operation only wins time. It is no remedy. When the respite expires, if no sound measures have been adopted, the problem is still there, greater and more oppressive than ever, and complicated with the consequences of arbitrary interference with one of the most important and most delicate parts of the financial system. In the meantime, the factions produced by various dogmas about the currency, by interests engaged in it, and by party intrigues to profit by it, have grown fierce and stubborn. They exhaust their strength in making a deadlock. We are in a financial crisis which is becoming chronic, and which will be solved by a great disaster, unless we can rally knowledge and statesmanship to deal with it.

THE END.

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